

Exhibit A

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

DECKERS OUTDOOR CORPORATION,)
Plaintiff,)
-vs-) No. 1:16-CV-03676
AUSTRALIAN LEATHER PTY, LTD.)
and ADNAN OYGUR a/k/a)
EDDIE OYGUR,)
Defendants.)

The videotaped deposition of JOHN ARNOLD, called by the Defendant for examination, taken pursuant to the Federal Rules of Civil Procedure of the United States District Courts pertaining to the taking of depositions, taken before Patricia M. Stone, a Certified Shorthand Reporter of the State of Illinois, at Suite 2200, 225 West Washington Street, Chicago, Illinois, on the 17th day of April, 2017, at the hour of 9:57 o'clock a.m.

REPORTED BY: PATRICIA M. STONE, CSR

LICENSE NO: 084-002880

JOB NO: 10519

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1 THE VIDEOGRAPHER: Here begins the
2 videotaped deposition of John Arnold in the matter
3 of Deckers Outdoor Corporation versus Australian
4 Leather PTY, Ltd., et al. in the United States
5 District Court for the Northern District of Illinois,
6 Eastern Division, Case Number 1:16-cv-03676.

7 Today's date is April 17th, 2017, and
8 the time is now 9:57 a.m. My name is Bruce Witty,
9 and the court reporter is Patty Stone of Thompson
10 Court Reporters. Today's deposition is being
11 taken at 225 West Washington Boulevard, Chicago,
12 Illinois.

13 Will Counsel please introduce themselves
14 and state whom they represent beginning with the
15 noticing party.

16 MR. BAGLEY: Actually before we do that,
17 there seems to be a phone ringing in here. I don't
18 think that is supposed to be happening. Can we get
19 that off?

20 (WHEREUPON, a brief pause was had
21 in the proceedings.)

22 MR. BAGLEY: All right. I believe I was
23 about to introduce myself. My name is Mark Bagley
24 of the law firm of Tolpin & Partners, PC in Chicago,

1 Illinois. I am representing the defendants,
2 Australian Leather and Adnan Oygur.

3 MR. RAYGOR: Kent Raygor of Sheppard Mullin
4 Richter & Hampton in Los Angeles representing
5 Plaintiff and Counter-Defendant, Deckers Outdoor
6 Corporation.

7 THE VIDEOGRAPHER: Would the court reporter
8 please swear in the witness.

9 (WHEREUPON, the witness was duly
10 sworn.)

11 J O H N A R N O L D ,
12 called as a witness herein, having been first duly
13 sworn, was examined and testified as follows:

14 EXAMINATION

15 BY MR. BAGLEY:

16 Q. Good morning.

17 Could I ask you to state your name for
18 the record.

19 A. My name is John Arnold.

20 Q. Have you ever given testimony in a legal
21 proceeding before?

22 A. In this country, no.

23 Q. Have you given testimony in another country?

24 A. Yes.

1 Q. What kind of -- about how many times did you
2 do that?

3 A. **Oh, perhaps once.**

4 Q. Do you remember what was the case about?

5 A. **I can't remember. It's so long ago.**

6 Q. Do you remember about when that case was?
7 How long ago it was?

8 A. **30 years, 40 years.**

9 Q. Did it happen to involve any trademarks or
10 brands?

11 A. **No, nothing.**

12 Q. Okay. Now, you said you haven't given any
13 kind of testimony in you said this country.

14 Now, do you mean the United States
15 because that's where we're sitting today?

16 A. **Yes, United States.**

17 Q. Okay. So have you ever given a deposition
18 or a United States style deposition before?

19 A. **No.**

20 Q. Okay. And one of the reasons I ask is to
21 try to get your familiarity with the process so we
22 can kind of give you an explanation of some of the
23 things that are going to happen today.

24 If you ever need a break at all, just

1 let us know. We can stop the tape, go off the record
2 and, you know, we can use the restroom or get some
3 more water or do anything you need. Just let us know
4 during -- during the process.

5 I'm going to be asking you a number
6 of questions today, and then a little later on
7 Mr. Raygor, who is representing the Plaintiff, is
8 going to ask you some additional questions.

9 When I'm asking you questions, if what I
10 say isn't clear to you or if you didn't hear me, stop
11 me and tell me, you know, because I want to make sure
12 you understand what I'm asking fully, and so don't --
13 I would say don't try to answer it unless you
14 understand it and just ask me to either speak more
15 clearly or ask something more clear and I will
16 attempt to do that.

17 **A. Okay.**

18 Q. From time to time when I'm asking questions,
19 you may hear Mr. Raygor make some objections for the
20 record. This is a standard part of this type of
21 proceeding, and I would ask that, you know, unless
22 you get a specific instruction not to answer the
23 question, despite whatever objections you hear, I
24 would ask that you attempt to answer the question to

1 the best of your ability. I may remind you of that
2 as we go on.

3 But as you notice next to you, there is
4 a court reporter making a written record of this. So
5 we would ask that you make all of your responses
6 verbal. Because if you just nod your head, that is
7 not something that will show up on the written
8 record. So just like I said make all of your
9 responses verbal, if possible.

10 Are you taking any medication or do you
11 have any medical condition that would affect your
12 ability to answer questions today?

13 **A. No.**

14 Q. Okay. Have you had any alcoholic beverages
15 in the past six hours?

16 **A. No.**

17 Q. Okay. Thank you.

18 Where --

19 MR. RAYGOR: Can I just add --

20 MR. BAGLEY: Sure --

21 MR. RAYGOR: -- one thing for context.

22 MR. BAGLEY: Please.

23 MR. RAYGOR: Just since you haven't done
24 this before, it's relatively informal in this room

1 here, but the deposition transcript that will -- will
2 be taken down here is intended to be used by Mark
3 and me if we ever get to a courtroom or a trial on
4 this.

5 So it's -- what you're testifying to
6 today is a substitute for you actually sitting in a
7 courtroom perhaps if you don't go to the trial. So
8 it's -- it's rather formal in that sense, and that's
9 why I'll be making objections. If I ask questions,
10 Mark might make objections.

11 There is no judge sitting here today to
12 rule on them, but we make the objections for the
13 record, and the judge can be asked to rule on them at
14 some point later.

15 THE WITNESS: I understand.

16 MR. RAYGOR: Okay.

17 BY MR. BAGLEY:

18 Q. When were you born?

19 A. Redacted

20 Q. And where were you born?

21 A. **Adelaide, South Australia.**

22 Q. Did you grow up in Adelaide?

23 A. **Yes. I did.**

24 Q. How long did you live there?

1 **A. I lived there probably until I was in my**
2 **late forties off and on.**

3 Q. Okay.

4 Okay. What is your current address?

5 **A. I have two addresses; 116 Frederick Street,**
6 **Evandale, South Australia, and the second address is**
7 **Building Number 3, Flat 20, The Gardens, Jebel Ali,**
8 **UAE or Dubai.**

9 Q. Is Dubai a city?

10 **A. Dubai is an emirates in the United Arab --**

11 Q. Okay.

12 **A. -- and it's a city, yes.**

13 Q. All right. I -- I didn't mean to get
14 into -- too technical. I just wanted to make it
15 clear for the record that this is -- this is part of
16 the United Arab emirates. Is that correct?

17 **A. Yes. There are a number of emirates, and**
18 **Dubai is one emirate that is also a city.**

19 Q. Okay. All right. Thank you.

20 And you mentioned Evandale. Is that
21 near Adelaide?

22 **A. Within fifteen minutes of the city center.**

23 Q. Okay. Thank you.

24 Mr. Arnold, in your life, have you ever

1 gone surfing?

2 **A. I've been surfing a good part of my early**
3 **years, yes.**

4 Q. A good part of your early years.

5 About when did you -- how old were you
6 when you started surfing?

7 **A. The definition of surfing we have to take**
8 **both ways. I would say a water sport activity at**
9 **around twelve years of age in a serious manner.**

10 Q. Okay. And how would you -- oh, I'm sorry.
11 I didn't mean to cut you off.

12 **A. That was relevant to the surf lifesaving**
13 **movement in Australia which was the early forerunner**
14 **for the surfing movement that created in our modern**
15 **world today.**

16 Q. Okay. You used a term in there, and I'm
17 trying to remember it. It was something about water
18 sport and -- well, what was the name, the term that
19 you used?

20 **A. Surf Lifesaving Association of Australia.**

21 Q. Okay. That's an organization. It sounds
22 like an organization.

23 **A. It's an organization which is like**
24 **lifeguards in the United States, and it was**

1 voluntary, and it formed the -- it was national run
2 around the country; and in every state of Australia,
3 you had a surf lifesaving association. And within
4 that association, you might have had 10, 20, 50,
5 60 clubs all encouraging young people to use the
6 water and use it properly and be trained in water
7 sport activity.

8 Q. During those early years -- I'm sorry.
9 Well, strike that. Let me ask.

10 So were you a member of one of these
11 associations?

12 A. Yes. I was.

13 Q. During your early years in that association,
14 were you doing some sort of activity that we would
15 recognize as surfing today?

16 A. No. Surfing, as we know it today, didn't
17 exist in that same framework. The boards were long
18 boards about 17 feet long, 18 feet long. They were
19 made of plywood, and you paddled them for racing
20 purposes rather than recreational wave riding.

21 Although you could use those same craft
22 riding waves but not in the way in which you see it
23 being -- surfing as it is today. It's totally
24 different.

1 Q. Was there a point in time when you started
2 doing an activity that would be likened to surfing
3 today?

4 A. The changing point was about 1956. That was
5 when we had some Hawaiian surfers visit Australia for
6 the 1956 Melbourne Olympic games.

7 At that time, they brought with them
8 new short boards from Hawaii, and people got an
9 expedition from these surfers on what they were
10 doing; and from that point on, surfing took a new
11 direction as we know it today. It was evolution of
12 the movement from surf lifesaving which is still in
13 existence and still very strong towards young people
14 being -- having options to go surfing or perhaps join
15 a surf lifesaving movement.

16 Q. Was this something that you participated in
17 on the new -- the new short boards?

18 A. Yes, yes, I did. In fact, the short board
19 evolution was slow and progressive, but I would say
20 I was the first person in Australia to build a firm
21 surfboard out of styrene foam, and that was probably
22 the first, and around 1958 I came to live in
23 California. Surfing was just starting in California
24 at that point in the way we know it today.

1 Q. So you mentioned you -- you built a board --

2 A. Yes.

3 Q. -- yourself --

4 A. Yes.

5 Q. -- personally?

6 A. Yes.

7 Q. Is that correct?

8 A. Yes, yes.

9 Q. And then you would use it --

10 A. Used it.

11 Q. -- in the water?

12 A. Used it for surfing, and people looked at
13 it and thought this is quite interesting, but there
14 wasn't very strong movement at that stage. It was
15 all fairly new. In California, it was new also.

16 Q. All right. I may come back to that -- well,
17 okay. No, let's go with that.

18 You said in 1958 you came to the United
19 States to live. Is that correct?

20 A. I came temporarily.

21 Q. Temporarily?

22 A. Yeah because you can't live -- you have to
23 get out.

24 Q. Well, yes. I imagine the immigration office

1 might have something to say about that.

2 A. But I was here about seven years.

3 Q. While you were here, what did you do?

4 A. I came to California, got off in
5 San Francisco, and I brought with -- and I didn't
6 come by plane. I came by sailing boat, and I brought
7 with me two surfboards that were built in Australia,
8 and I bought a car and took my surfboards on the top,
9 and I set -- set sail around the United States for
10 the next seven months covering Northern California,
11 Southern California, Mexico right across to the east
12 coast right up to the top of the -- from Florida
13 right up to the top of the east coast and then back
14 through the central parts of America covering just
15 about every state in the United States during that
16 time and meeting at the time most of the I guess
17 famous name brands and surf companies that are still
18 in business today.

19 Q. When you said meeting them, who were some of
20 the people that you met during that trip?

21 A. The first one I met was Jack O'Neill,
22 Santa Cruz, California, and his brand is now world
23 famous, and he was also at that stage just opening
24 his business and people were saying, Well, Jack, we

1 want to stay warm in the water, what are you doing?

2 And he was starting to experiment with building
3 wetsuits, and that was out of closed-cell neoprene,
4 and the die-hard surfers like myself and others in
5 southern California started using wetsuits.

6 They were very crude at first; but over
7 the years, of course, they were refined into very
8 elegant garments, but it was the forerunner of the
9 wetsuit business as we know it for surfing.

10 Of course, wetsuits before were used for
11 military purposes for diving, but that was different
12 altogether.

13 Q. Okay. And besides Mr. O'Neill, were there
14 some other people you met during that trip that
15 you --

16 A. Oh, yes.

17 Q. -- would now consider big names in surfing?

18 A. Yes.

19 Q. Who?

20 A. In Santa Barbara, we had Reynolds Yater.
21 Reynolds Yater is still making or his company is
22 still making surfboards in Santa Barbara and regarded
23 as one of the very best quality products in the
24 surfing business; and in the central part of

1 Los Angeles, there was many. Some of them have
2 passed away now, but let's say from memory there
3 would have been -- my memory alludes me now on some
4 of these names but anyway.

5 Q. Well, that's fine. That was many years ago.
6 So I'm just asking about the ones that you do happen
7 to remember.

8 A. But the famous one I think then I'd say for
9 many, many months was John Severson. He was the
10 founder of Surfer magazine, Dana Point, California.
11 He and I covered many of the beaches together in
12 southern California right down to the bottom end of
13 Mexico.

14 Q. And you -- you said you stayed with
15 Mr. Severson?

16 A. Yes. I did.

17 Q. Meaning like did you live in his house?

18 A. Yeah. I lived -- I lived in his house,
19 yes.

20 Q. I understand just by doing the math in 1958
21 were you about 18?

22 A. Yes.

23 Q. Okay.

24 A. Yeah, around 18, 19, something like that,

1 **yeah.**

2 Q. And did you stay -- how long did you stay
3 with Mr. Severson?

4 A. Off and on two or three months, maybe
5 longer, but I went from there over to the east coast.
6 So I went and toured the east coast because in the
7 morning in Dana Point I would meet with quite a lot
8 of famous people that are noted today such as
9 Hobie Alter who is the famous brand of Hobie. There
10 was Bruce Brown, who was the forerunner of making the
11 film Endless Summer, John Severson, myself, and
12 probably about six or seven others that were working
13 in the surfing industry there in Dana Point.

14 We had a -- a friendship or a club where
15 we'd meet in the morning and have breakfast together
16 and then check the waves and see if they're okay and
17 then go and do some work.

18 Q. By work, do you mean surfing?

19 A. Work -- work was hobby work.

20 Q. Of course, of course.

21 A. But John Severson was the editor and founder
22 of Surfer magazine. So he was building that magazine
23 from his home garage. Business started just in
24 garages and backyards. It wasn't formalized in the

1 way we know businesses today. So it was friendly and
2 cooperative, and the same for Hobie Alter. He had a
3 workshop in Dana Point making surfboards. He's
4 passed away now a few years ago back. Bruce Brown is
5 still alive.

6 John Severson, of course, after we met
7 came to Australia and visited me down there, but
8 let's say from Dana Point I went and visited all of
9 the surfing places I could find on the east coast
10 which were unknown to people in California at that
11 time.

12 Bruce Brown used to say to me, There's
13 no surfing on the east coast, don't even bother, and
14 I proved them wrong because I went there and I found
15 good surfing spots all the way along the coastline,
16 brought the photos back and said, There you are,
17 look at that; and from then on, the east coast was
18 noted for having good surf and good possibilities
19 for the same type of water sports that were
20 emerging in California and, of course, Hawaii and
21 Australia.

22 Q. Wow, that sounds like quite a trip.

23 We may come back to some of those
24 topics, but I'd like to take maybe a step back and

1 ask you about your education.

2 So what was the highest level of
3 education that you've attained?

4 A. I attained an accounting certificate at I
5 think you call it a university, but then it wasn't
6 called a university. It was called something else
7 but the same level. If I go back to that same place
8 today, it's called a university.

9 Q. Okay. What year did you receive that
10 certificate?

11 A. That would have been -- it would have been
12 mid '50s, 1956, in that sort of area, yeah.

13 Q. So just to be sure, so that was before you
14 took this trip to the United States --

15 A. Yes, yes.

16 Q. -- that you were describing?

17 A. Yes, yes.

18 Q. Okay. After you got that accounting
19 certificate, what was your first employer or business
20 where you worked?

21 A. Well, let me give you a bit of a
22 backtrack --

23 Q. Please.

24 A. -- on this because I was employed by a real

1 estate company then as a trainee in accounting; and
2 around the time I was sixteen years of age, my
3 parents, this is my grandfather and my father, they
4 had a footwear manufacturing business who was engaged
5 in making slippers and it was engaged in repairing of
6 footwear because in those days most of the footwear
7 was made from leather and not injected molded product
8 as we have in today's footwear business.

9 So while I was doing accounting studies
10 at the age of sixteen, both my parents were killed in
11 an accident.

12 Q. Oh.

13 A. And that changed my life completely from
14 being employed in a real estate company as a junior
15 accounting star to moving into the family business;
16 and in doing so, I was handling the bookkeeping as
17 we would call it of a small family business engaged
18 in the leather industry, retailing of shoes,
19 manufacturing of slippers.

20 We would call them slippers like
21 gentleman's-type slippers as you would see in some of
22 the stores today, nicely crafted with leather soles
23 and sheepskin linings, footwear repairs because in
24 those days shoes were being made of leather and wore

1 out easily. Therefore, there was a need to have them
2 repaired so -- and that business started as early as
3 I think 1902 in Adelaide. It was my grandfather that
4 started that with his brothers.

5 Q. What did -- what was that business called?
6 Did it have a name?

7 A. Yes. It was called Arnold's Shoe --
8 Arnold's Shoes and Arnold's Shoe Repairs I think from
9 memory. I'd have to look at one of the old photos to
10 bring that together.

11 Q. Okay. And was it called the same thing when
12 you were involved with it?

13 A. Pretty much, yes. I think some of the words
14 changed. I think at one stage they had Arnold's
15 Classic Shoes and maybe the word dropped out but it
16 continued on, yes.

17 Q. Okay.

18 A. Until -- well, I joined the company after my
19 parents were killed. The business ran along, and
20 then the turning point at that point was I was
21 involved with my father in training for surf
22 lifesaving. We would get up in the mornings at
23 4:00 o'clock. He'd take me down to the coastline,
24 and we'd train aggressively for competition. So it

1 was pretty full on.

2 Then they were killed. I then took an
3 interest because I saw some of the surfing photos
4 from Hawaii emerging of people using short boards on
5 large waves.

6 So from that point, I kept interested,
7 and I learned in Sydney from some of my colleagues
8 who were looking at experimenting with short boards
9 made from balsam wood from Ecuador, and that to me
10 was a stepping stone into the surfer, this short
11 border era of which I brought a number of those
12 boards from people in Sydney and set up a surf shop,
13 a very small surf shop at the back side of a leather
14 or a shoe manufacturing operation which was located
15 in the City of Adelaide.

16 Q. Okay. So you're anticipating some of my
17 questions I was going to ask. Let me step back a
18 little bit.

19 Before the shoe company, was there --
20 you also mentioned a shoe manufacturing operation.

21 Was that part of your -- was that part
22 of the shoe business --

23 A. Yes.

24 Q. -- from before the time you were involved?

1 A. It was always in -- within the company
2 structure, but it was never big. In those days, shoe
3 manufacturing -- when I say that it was like hobby
4 shoe manufacturing, two or three tradesmen putting
5 together some footwear items and being sold. You --
6 you would call it a small factory. I think we had at
7 that stage around about 17 people working.

8 Q. Okay. You again now talked about at least
9 two different businesses, but let's -- let me focus
10 on the shoe business for now.

11 A. Yeah.

12 Q. You said that continued.

13 About how long in time did that -- was
14 that a going concern?

15 A. I think the slipper business when my father
16 died took a back step because he was leading that and
17 I was coming from an accounting background, and I
18 wasn't really leading that anymore, and nobody else
19 was really following it.

20 So it sort of sat as a dormant item but
21 not totally dormant. It was just there chugging
22 along.

23 Q. Okay. What was dormant or chugging along
24 exactly? The entire business or --

1 **A. No. The whole business was active, but the**
2 **manufacturing of footwear took a back step.**

3 Q. All right. Okay.

4 **A. For awhile, right.**

5 Q. Okay. So I guess my question was: You said
6 the whole shoe business was still active. About how
7 long did that business continue?

8 Was it still active in the '60s? Was it
9 active in the '70s? How long of a timeframe?

10 **A. Oh, yes, yes, yes.**

11 Q. How long was it active?

12 **A. I think it ceased activities in -- I'd have**
13 **to think back, maybe -- maybe somewhere in the 1980s,**
14 **somewhere like that.**

15 Q. Okay. Thank you.

16 Now, you mentioned that you opened a
17 surf shop at some point.

18 Do you remember what year that was that
19 you said?

20 **A. Yeah. That would have been around about '57**
21 **or '58 I think.**

22 Q. Okay. And did that surf shop remain in
23 business for a number of years?

24 **A. Oh, yes, yes.**

1 Q. How long -- how many years did it remain in
2 operation?

3 A. Around until about 1977 when it was bought
4 out by another gentleman in the City of Adelaide, and
5 he continued it on. So it's still running today.

6 Q. Oh, it's still running today?

7 A. Yeah.

8 Q. Okay. So what were some of your
9 responsibilities -- well, before I ask that, you
10 mentioned the shoe business --

11 A. Yes.

12 Q. -- and the surf shop business which sounds
13 like they were going on at the same time. Is that
14 correct?

15 A. They were. Everything was collectively
16 running, yes.

17 Q. Did you have any other businesses?

18 A. Yes, quite -- quite a lot, quite a lot.

19 Q. Well, if we could -- if you had a lot, could
20 we maybe go in like chronological order or...

21 A. Sure. I will try and work my way through.

22 Q. Or if you can give me an overview first, and
23 then we can talk about them separately.

24 A. There was the -- I'll call it sportswear

1 manufacturing business. That comprised mainly of
2 T-shirts, board shorts, and apparel that was
3 connected to the surfing industry or the surfing
4 fraternity. That became a -- an Australia-wide and a
5 global phenomenon.

6 There was the film industry who were
7 manufacturing and producing films, magazines, the
8 manufacturer, of course, of outgoods, the
9 manufacturer of sandals which were of a Mexican
10 origin originally made from tire tread and leather
11 uppers, a clothing business.

12 I'm trying to think back of all of the
13 different segments, and there was many because it was
14 a -- a vertically integrated surfing business
15 operation comprising of numerous product divisions
16 all working in harmony through the -- the three
17 operating companies which was O'Neill Wetsuits,
18 Arnold's Shoes, John Arnold Surf Shop, and Golden
19 Breed Sportswear.

20 MR. RAYGOR: Golden Breed?

21 BY THE WITNESS:

22 A. Yes.

23 BY MR. BAGLEY:

24 Q. Okay. I believe that was four names that

1 you mentioned. Is that correct?

2 **A. I mentioned four, yes. Whether they're all**
3 **independent companies, I'd have to look back on that,**
4 **but certainly Arnold Shoes was an independent**
5 **company. John Arnold Surf Shop was an independent**
6 **company. O'Neill Wetsuits was an independent company**
7 **which might have also within its structure the**
8 **Golden Breed garment manufacturer. I'd have to look**
9 **that all up.**

10 Q. Right. And again today in the deposition we
11 are asking you about things to the best of your
12 memory.

13 **A. Yes.**

14 Q. And so were you the -- did you have an
15 ownership interest in all four of the companies you
16 just mentioned?

17 **A. Yes.**

18 Q. Were you the sole owner of any of the
19 companies?

20 **A. No.**

21 Q. Okay. Fair enough.

22 You mentioned O'Neill Wetsuits. I
23 believe earlier in the deposition you mentioned
24 Jack O'Neill.

1 Was O'Neill Wetsuits Jack's company or
2 was it your company?

3 **A. No.**

4 Q. Could you explain the ownership of O'Neill
5 Wetsuits and what you meant by that?

6 **A. Jack O'Neill, when I met him in California**
7 **in the late '50s, early '60s, had never ever decided**
8 **to license his product. I approached him on this**
9 **basis that we make the wetsuits in Australia, and he**
10 **said, Well, okay, let's work on that, and we did, and**
11 **we took a license from him to manufacture O'Neill**
12 **Wetsuits in Australia, and that started I think in**
13 **about 1961 approximately, and it then grew into a**
14 **very large business.**

15 Q. I see.

16 So is it correct that the O'Neill
17 Wetsuits business you mentioned was an Australian
18 business?

19 **A. Correct.**

20 Q. And that business was a licensee from
21 Mr. Jack O'Neill?

22 **A. Correct.**

23 Q. Thank you.

24 Okay. And I -- to the best you can

1 remember, what were these, you know, four companies
2 operating at the same time? Let me ask a better
3 question.

4 Were there any years -- could you give
5 me a range of years in which -- I'm trying to ask a
6 good question. Let's start with the first one.

7 Were there any years in which these four
8 companies were operating at the same time?

9 **A. During -- yeah, they're all operating at the**
10 **same time, but Arnold Shoes was there from the**
11 **beginning.**

12 Q. Yes, okay.

13 **A. And then the others were added as the times**
14 **went along. So eventually if you took a point of**
15 **time in the late '70s they're all operating**
16 **together.**

17 Q. Okay.

18 **A. Or early '70s I think, yeah.**

19 Q. All right. I'm trying to get a sense of
20 maybe when each company was sort of added to the
21 group then.

22 **A. Well, '61 O'Neill Wetsuits and probably '63**
23 **Golden Breed. John Arnold Surf Shop was formed, of**
24 **course, earlier and then formed into its own company**

1 **I think in the early '60s, yes.**

2 Q. For the John Arnold Surf Shop, did you
3 have -- was it just one location or did you have more
4 than one location?

5 A. One location.

6 Q. One location?

7 A. Yes. Although there were at times branches,
8 but some of those were closed down because they
9 weren't successful.

10 Q. Okay. And you had -- you had mentioned
11 early I think some sort of integrated -- how did you
12 phrase that? I don't want to put words in your
13 mouth.

14 A. Yes.

15 Q. How were these businesses integrated in your
16 mind or how -- how did they support each other?

17 A. Well, I was a shareholder in all, okay.
18 Some of them had other shareholders and others
19 didn't.

20 So as a result, Arnold Shoes would have
21 been 100 percent myself. O'Neill Wetsuits would have
22 been 50/50 with another colleague of mine in Sydney.
23 Same for Golden Breed, and then we have John Arnold
24 Surf Shop which was 100 percent mine.

1 Q. I'm sorry. I don't want to cut you off.

2 A. No. That's it.

3 Q. And I don't want to cut you off. Perhaps I
4 should have asked the question a little better. I
5 think you answered, you know, business ownership. I
6 was asking more from a strategic point of view.

7 Did you see these different businesses
8 as -- you mentioned integration, right?

9 A. Yes.

10 Q. So from the purpose of their business or
11 their strategic value, did you see them supporting
12 each other?

13 A. Yes. We had common loans financially
14 between them; and at the same time, the products were
15 regarded as one surfing product range for -- for the
16 market.

17 So there was products, surfboards,
18 UGG boots, sandals, films, clothing, and all of the
19 other accessories that went into the surfing business
20 all coming out of one hub although four companies
21 underneath putting that all together.

22 Q. Thank you.

23 A. It is probably unique in the world even
24 today for what it stood for and what it did.

1 Q. Okay. Thank you.

2 You mentioned UGG boots. Were those one
3 of the things you manufactured?

4 A. Yes.

5 Q. How did that come about?

6 A. It came about from a very, very small
7 beginning. Surfers were going surfing during the
8 winter months, of course, as it became possible,
9 waves were better, and a colleague of mine by the
10 name of Charlie Spencer who was a boot maker from
11 Arosita (phonetic) Boot Company in Adelaide had
12 started playing around with sheepskins.

13 When I say "playing around," putting
14 pieces together, looking at what we could do, and
15 between us we had what we call a very, very rough
16 pull-on sock without any sole. It was like a warm
17 sock, sheepskin made out of oddments of materials.

18 That really was the forerunner of our
19 boot; and over a period of a year or so, it got
20 refined to the stage where it had -- it looks today
21 in the market exactly as it looked in those early
22 days. It was made out of sheepskin buffed on the
23 outside, but originally the sheepskins were of poor
24 quality. So we had to work with tanners to upgrade

1 the quality for -- for boot use. And bear in mind
2 that boots had never been made in Australia before
3 using the sheepskins in this form because the
4 Australian sheepskin industry was, in fact, a meat
5 industry.

6 Sheep were killed for meat. The skins
7 were a by-product and, therefore, the skins were
8 really not of any value; but by taking the skins to
9 tanneries, some of them fairly small, of course, we
10 developed -- and I say we collectively with myself
11 and other team members of my company -- a better
12 quality sheepskin that, in fact, could be presented
13 as a -- as a product, and it took time. It wasn't
14 something that happened in five minutes. It was week
15 by week by week experimenting and not thinking about
16 it, let's play on this this week because we have
17 nothing to do, and eventually we had sheepskins that
18 could be cut, and -- and three pieces went into the
19 UGG boot. It was the top front section, and the
20 middle section, and the back section.

21 So it was three-piece construction
22 pretty -- pretty much as you see it in today's
23 market. That was built and surfers became used to
24 it, and we called it UGG boot.

1 Q. Okay.

2 A. At first, it was sold at retail for a very
3 low price because the value that people put in UGG
4 boot at that stage was minimal. It was like a
5 by-product or something that surfers wore and nobody
6 else would wear, and I showed these boots to my
7 colleagues in Sydney and Melbourne, and they said,
8 You've got to be kidding. Who would ever? We can't
9 sell this.

10 But eventually that happened. Bits and
11 pieces were starting to be sold in Sydney, Melbourne,
12 and Brisbane and all around Australia coming from our
13 factory in Adelaide. When I say factory, workshop.
14 It's not really a factory.

15 Q. Fair enough. Fair enough.

16 Was there a time -- can you put a year
17 on it when sort of the UGG boot emerged? Let me give
18 you a little background.

19 You said earlier that it was -- there
20 was a process of development over time.

21 A. Sure.

22 Q. Was there a time when something emerged that
23 you would recognize as a modern UGG boot?

24 A. I think it must have been in the early '60s

1 when the product was starting to get recognized as
2 UGG boot, and surf shops around Australia were
3 saying, Please send me 20 pairs. Please, send me
4 50 pairs.

5 It emerged from one sale to multiples,
6 and it became popular for snow skiers, and it became
7 popular for surfers. It was a -- a foot warmer. I
8 think early '60s we saw that happening.

9 Q. Okay. You've been calling them UGG boots.

10 Did you ever have any trademark
11 registrations for the word "UGG"?

12 A. I did register UGG boot as a business name,
13 but I didn't register it as a trademark.

14 Q. Do you remember about when, what year you
15 registered it as a business name?

16 A. It would have been early '60s. I was
17 thinking of -- of perhaps trademarking it, but I
18 didn't follow it through.

19 Q. I see.

20 Okay. During the early years, you had
21 mentioned your factory or your workshop.

22 A. Yeah.

23 Q. Is that where the boots were made during the
24 early '60s?

1 A. They were made collectively in a garage by
2 Charlie Spencer. He was a cutter and sewer. He
3 would send them to our factory where we would finish
4 them off putting soles on to them and decorating them
5 in different ways, and it was a combined effort of
6 him using our workshop and we using his workshop. In
7 other words, he was like a small subcontractor.

8 Q. Okay. I can see how that would work.

9 A. Yeah.

10 Q. So when the boots left your workshop say in
11 the early or mid '60s, did they have any labels or
12 tags on them?

13 A. Yeah. They all have to have a swing tag,
14 and they all have to have some identification on the
15 bottom like leather upper or rubber sole or this type
16 of thing, yes, yeah, and that swing tag that shows
17 Arnold Shoes UGG boot.

18 Q. Okay. When you say a swing tag, just for
19 the record is this something that's tied on with a
20 string or how -- how does that work? Could you
21 describe that?

22 A. You use one of these guns that pushes
23 through the leather and attaches the tag, right,
24 common in today's labeling.

1 Q. That's true. I said string. I was being
2 vague.

3 But there is some sort of connector?

4 A. **Sure.**

5 Q. Maybe sometimes it's plastic?

6 A. **Yeah, yeah.**

7 Q. And then is it a cardboard tag?

8 A. **Usually, yes, yes.**

9 Q. Usually, okay.

10 A. **Yes.**

11 Q. I'm just trying to get a sense of what these
12 terms mean and how you're using them.

13 A. **Yes; but in those days, I mean labeling on**
14 **products in -- in Australia in those days pretty**
15 **early there wasn't really a lot of laws saying,**
16 **You must do this, you must do that.**

17 It was emerging that within the
18 **industry, garment industry and so forth, you had**
19 **swing tags on products for pricing and for**
20 **identification as to the brand name.**

21 Q. Okay. So what was on the swing tags for
22 your UGG boots?

23 MR. RAYGOR: Asked and answered.
24

1 BY THE WITNESS:

2 A. UGG boots.

3 BY MR. BAGLEY:

4 Q. The words "UGG Boots"?

5 A. Yeah.

6 Q. Was there anything else? Any other words?

7 A. Arnold Shoes, John Arnold Surf Shop, yeah.

8 Q. Did that change over time?

9 And when I said that, I mean the things
10 placed on the swing tag, the things stated on the
11 swing tag.

12 A. I really can't answer that with accuracy. I
13 don't think so. It was basic.

14 Q. When you say you can't answer it, do you
15 mean --

16 A. I don't know.

17 Q. -- you just don't know?

18 A. I don't know anymore.

19 Q. Okay.

20 A. It was --

21 Q. All right. Fair enough.

22 A. It was irrelevant to normal commerce
23 markings, the name of the manufacturer, the brand
24 name of the product such as UGG boot, leather upper,

1 **rubber sole.**

2 Q. Were there any kind of words or lettering on
3 the boots themselves?

4 **A. No.**

5 Q. Okay. When the boots left your factory or
6 workshop, were they in any kind of packaging?

7 **A. Usually a plastic bag, yeah.**

8 Q. Did the plastic bag say anything?

9 **A. No, no.**

10 Q. I realize this may be different over time,
11 but could you give me an estimate of how many -- the
12 volume of UGG boots that you -- that John Arnold
13 Shoes was producing?

14 **A. I'll have to give you a rough idea.**

15 Q. Yes.

16 **A. It probably could have been in the vicinity**
17 **of 500 pairs a week.**

18 MR. RAYGOR: Vague as to time.

19 MR. BAGLEY: Right. And I'll ask about
20 that.

21 BY MR. BAGLEY:

22 Q. I'd like to see how that -- did that change
23 over time, the number of boots you were producing?
24 Did it start off smaller?

1 A. Of course, small, yes. I mean, we started
2 off small in its original days like 20 pairs,
3 30 pairs, 50 pairs, not too many because it was a new
4 product, and people didn't understand what it was all
5 about, and there was no commercial gain in the
6 product. People were, Oh, it's nice really, I'm
7 not going to wear it, but that's how it went.

8 Q. Okay. Just to try to put some framing dates
9 on it, you mentioned the early days.

10 Would that have been the early 1960s?

11 A. Yes, early 1960s, yes.

12 Q. And just, you know, I'm trying to get the
13 record straight here.

14 Would that have been about the time when
15 you were producing perhaps 20 or 30 or 50 boots a
16 week?

17 A. Yes.

18 Q. Okay. How would you say that changed by say
19 around 1970?

20 A. Well, when we get into that period, a lot of
21 things changed because John Arnold Surf Shop through
22 its endorsement of global surfing identities of the
23 surfboards that we were manufacturing became famous
24 and were in demand globally.

1 Now, we set up then business
2 opportunities with surf shops on the east coast of
3 Australia and west coast -- east coast of the United
4 States, west coast of the United States. They wanted
5 to buy our surfboards and, of course, it was
6 favorable business at the time because the exchange
7 rates were favorable, and we had built in certain
8 innovations to the surfboards which made the fact
9 that they could be transported relatively easy
10 compared to surfboards prior.

11 These surfboards had multi-changeable
12 fins. That means the bottom fin didn't have to be
13 attached to the board in its transportation stage,
14 and we packed three boards to a large heavy-duty
15 carton, right; and then to protect the boards from
16 damage, we packed UGG boots around the front and the
17 rear sections in the cartons, and then the boards
18 were air freighted to various locations in the United
19 States weekly, monthly. It kept on going and grew
20 with Japan, U. K., other countries.

21 Q. Okay. Thank you. That's all very good
22 information, and I may come back to some points in
23 there.

24 I think my original question was about

1 the volume of UGG boots --

2 **A. Yes.**

3 Q. -- that you were producing in around 1970
4 because I was trying to get a sense of how the volume
5 of UGG boots produced changed over time.

6 **A. Yes.**

7 Q. So do you have an estimate in about 1970
8 about how many UGG boots --

9 **A. Oh, that could have got into that stage**
10 **because surf shops would take a couple hundred. So**
11 **it would be in the thousands.**

12 Q. Per week?

13 **A. Yes.**

14 Q. And I don't know if I have asked this
15 before, but how long -- how many years beyond 1970
16 did your company produce UGG boots?

17 **A. Pretty much until '76, '77, '78.**

18 Q. Okay.

19 **A. Because the UGG boot took a different form.**
20 **It moved from its traditional form which was a**
21 **three-piece construction of just above ankle height**
22 **to that of tall boots and decorative boots. So the**
23 **image of the UGG boot became more fashionable.**

24 Q. Okay.

1 **A. And that lost track -- surfers didn't buy**
2 **that. Mainstream public bought that.**

3 Q. Okay.

4 **A. So it moved from the core of surfers over to**
5 **mainstream people that were snow skiers or children**
6 **that wanted some fancy boots for parties and things.**
7 **So it changed its direction, not -- not from the**
8 **original core of the boot but the -- the appeal to a**
9 **broader market, yes.**

10 Q. And what timeframe do you think that
11 happened?

12 **A. That was in the mid '70s, early '70s.**

13 Q. Okay. And I'm going to go back to my
14 question of numbers.

15 By the time that you got out of
16 making -- you, your company, got out of making
17 UGG boots in the mid to late '70s and you said some
18 years --

19 **A. Yes.**

20 Q. -- about, toward the end, about how many
21 boots per week were you producing?

22 **A. Oh, probably a couple hundred, not much.**

23 Q. Okay. You did mention some sales to the
24 United States. At least you talked about it being

1 packed together, the UGG boots being packed together
2 with surfboards. I'm going to take a step back.

3 Do you remember when you first started
4 selling UGG boots to people in the United States?

5 A. Yes. I do very clearly.

6 Q. When was that?

7 A. Early in the '60s, probably about '62 I
8 think or early '63, Jack O'Neill visited me from
9 California, and he brought with him his son,
10 Pat O'Neill, and they saw the UGG boots in our
11 workshop and were thrilled. They said, These are
12 great. These are super. I want these.

13 So we bundled up at that point -- my
14 team bundled up quite a lot of boots. It must have
15 been a few hundred pairs, and he took them back to
16 California to a surf shop, and immediately upon being
17 there he said, John -- he called me and said, I need
18 some more. You better send some more please. These
19 look like hot sells.

20 I said, Jack, you should take up the
21 rights for these for the whole United States, and
22 that's how it all started there with Jack O'Neill.

23 Q. Did Mr. O'Neill take up the rights to those
24 boots?

1 A. No. He wished he had have, but he didn't.
2 He said one of the biggest mistakes of his life, but
3 nevertheless he -- he saw the boots coming from our
4 workshop in Australia that were shipped to him and,
5 of course, the business grew in the United States for
6 us as the supplier from Australia because of what I
7 mentioned before.

8 The -- the demand for our surfboards had
9 escalated, and boards were going primarily to the
10 east coast, some coming to the west coast, but let me
11 explain that a little bit more.

12 The west coast of the United States
13 had surfboard manufacturers making boards.
14 Therefore, the need for our boards on the west coast
15 wasn't so high except for some branded boards that
16 we had that were particularly important for end
17 users; but on the east coast where surfing was just
18 emerging, the opportunities were far greater, and
19 the demand was quite high from Florida right up
20 to the -- past Massachusetts, Rhode Island, those
21 areas.

22 And because we designed a way to carry
23 the boards effectively without damage and also
24 including the UGG boots in the boxes, this was a

1 bonanza. The surf shops loved it. Customers loved
2 it and, of course, we had a lot of active business
3 running for many years.

4 Q. Could you give me an estimate of what years
5 this business in the United States was taking place
6 beyond -- you gave me a year for when Jack O'Neill
7 started.

8 A. I think it would have been I think late '60s
9 through to the early '70s, and the reason for that
10 being quite popular I suppose was our pricing
11 situation was good, and I relate that to the exchange
12 rate at the time because I think exchange rates
13 dictate to the world markets buy and sell what
14 products are going to move and what products are not
15 going to move, and we were highly geared to the
16 exchange rates and the support from the Australian
17 government in regards to export incentives.

18 Q. Okay. Let me try to ask this.

19 What -- and I'm going to try to specify
20 some years.

21 A. Yes.

22 Q. You talked about there were years when you
23 had very good -- did you describe some years when you
24 thought you had very good sales to the United States

1 of UGG boots?

2 A. It would have been at the time of the board
3 sales coming to the surf shops. There wasn't, to
4 my memory, any significant sales of UGG boots to
5 footwear retailers. It was mainly only to surf
6 shops, and we went -- they went there because they
7 were a part of the board shipments.

8 Some surf shops I can recall did order
9 additional carton loads of UGG boots from us where we
10 loaded a large export carton of -- that we would use
11 for the boards just for boots, and that went off in
12 conjunction with seven cartons of surfboards, maybe
13 two cartons, large cartons, of UGG boots as a -- as
14 total shipment so yes.

15 Q. Okay.

16 A. So it expanded like that, but it wasn't
17 any -- there weren't any sales into mainstream
18 footwear shops --

19 Q. Sure.

20 A. -- that I know of.

21 Q. I appreciate that. Just to focus back on
22 what I was thinking about. I was trying to focus on
23 some years.

24 What years were -- was this occurring?

1 Was it the late '60s? Early '70s? What years would
2 you describe that as being?

3 **A. Okay. I would have to think from memory it**
4 **was late '60s, early '70s when this all emerged.**

5 Q. Okay. And during those years of late '60s,
6 early '70s, could you give me an estimate of -- and
7 put it in whatever timeframe you can do it whether a
8 weekly or yearly basis -- how many UGG boots your
9 company was selling to the United States?

10 MR. RAYGOR: Objection. Calls for
11 speculation. Lacks foundation.

12 BY MR. BAGLEY:

13 Q. Can you answer the question?

14 **A. Not accurately, but let's say it was in the**
15 **thousands.**

16 Q. In the thousands per what timeframe?

17 **A. Oh, per week.**

18 Q. Per week?

19 **A. Yes.**

20 Q. And just to be -- I'm trying to be clear for
21 the record.

22 Do you mean your company you would
23 estimate was selling thousands of UGG boots to the
24 United States per week?

1 **A. Yes.**

2 Q. During that timeframe?

3 **A. Yes.**

4 Q. Thank you.

5 Do you remember how long, even if it was
6 not at the same volume, do you remember how long in
7 years you were selling UGG boots to the United
8 States?

9 My -- my question is: How long did it
10 last?

11 **A. I think it petered out in '73, something**
12 **like this when the board sales started to decline and**
13 **we weren't competitive on price on boards.**

14 The UGG boots, of course, weren't being
15 transported the way they were being transported
16 because they went free of freight cost if you can
17 follow that.

18 So it was a -- it was a strategy
19 involved that we took empty space in the boxes to
20 create a buffer for the surfboards. That meant the
21 UGG boots really traveled free of freight cost to the
22 United States.

23 MR. BAGLEY: Okay. I see that. I see
24 that.

1 (WHEREUPON, Defendant's Deposition
2 Exhibit 48 was marked for
3 identification as of this date.)

4 BY MR. BAGLEY:

5 Q. Okay.

6 All right. I'm going to give you an
7 exhibit to look at. I'm going to mark this as
8 Defendant's Deposition Exhibit Number 48, and it is
9 two pages.

10 I'll ask you to take a look at that,
11 for now just the top page, and I would ask do you
12 recognize --

13 MR. RAYGOR: Just a minute.

14 MR. BAGLEY: I'm sorry.

15 MR. RAYGOR: Do you have a version with the
16 production numbers on it?

17 MR. BAGLEY: I do not.

18 MR. RAYGOR: Is this because it's been held
19 back?

20 MR. BAGLEY: No.

21 MR. RAYGOR: It's supposed to have been
22 produced because you have an ongoing obligation under
23 Federal Rule 26 (e) to produce documents as you find
24 them that are responsive to our requests.

1 MR. BAGLEY: Thank you for making that. I
2 think we will address that in some questions.

3 MR. RAYGOR: Okay. How long have you had
4 it?

5 MR. BAGLEY: Well, I'm not giving a
6 deposition here. I -- we will -- if we need to talk
7 about that on the record or off the record, we can
8 certainly do that, but if you will allow me --

9 MR. RAYGOR: I will note for the record that
10 you refuse to answer that question, and we will
11 address it later.

12 MR. BAGLEY: Okay. Perhaps we will address
13 it in some questions to the deponent but --

14 MR. RAYGOR: And we will address it -- I
15 will address it with you directly.

16 MR. BAGLEY: Okay.

17 MR. RAYGOR: And perhaps the Court.

18 MR. BAGLEY: Do you have any other
19 objections that you would like to state for the
20 record now or can I get on with the questioning?

21 MR. RAYGOR: You can go ahead with your
22 questions. I will probably have some objections, but
23 go ahead.

24 MR. BAGLEY: Okay.

1 BY MR. BAGLEY:

2 Q. First question.

3 Do you, looking at the top page there,
4 do you recognize that?

5 A. Yes. I do.

6 Q. And what is it?

7 A. It's a photograph of Jack O'Neill from the
8 front cover of his O'Neill book.

9 Q. Are you familiar with that book?

10 A. Yes. I am.

11 Q. Do you have a copy of that book?

12 A. I do have a copy in Australia. I don't have
13 one with me here in the United States.

14 Q. Were you involved at all in the production
15 or writing of that book?

16 MR. RAYGOR: Objection. Vague as to what
17 you mean by involved in production or writing.

18 BY MR. BAGLEY:

19 Q. Okay. If you can answer the question.

20 A. I'm not involved with the actual production
21 of the book, but I did contribute some written
22 material to the book.

23 Q. What did you contribute?

24 A. Jack asked me to elaborate on our activities

1 in Australia and provide him with information as to
2 how we progress with our business down under in
3 Australia, and that primarily is how it went forward,
4 and I put together information for him but a lot of
5 it he had himself.

6 Q. When you say you put together information,
7 did you write something like text, words?

8 A. I wrote regarding the O'Neill wetsuit
9 operation in Australia, yes.

10 Q. And did you send those words or documents --
11 what did you do with those words or documents that
12 you wrote?

13 A. Okay. I went to his publisher,
14 Drew Kampion, in Seattle who published the book on
15 Jack's life history, and that's how it went together.

16 Q. So, all right, let me ask this.

17 Did anything you wrote end up in the
18 book?

19 A. Well, yes. I guess it did. It did mention
20 in the book that -- about Jack being the first
21 company to take UGG boots from us in the United
22 States, and that was mentioned in the book, and he
23 supports all of that because that's what he did. He
24 bought the boots and sold them.

1 Q. Okay. If I could direct your attention to
2 the second page of this exhibit.

3 MR. RAYGOR: What's the exhibit number on
4 this? What was the Exhibit Number?

5 MR. BAGLEY: I believe it was 48.

6 BY MR. BAGLEY:

7 Q. If I can direct your attention to the second
8 page.

9 On the right-hand column, there is some
10 text under a heading that says O'Neill Wetsuits, PTY,
11 Ltd.

12 **A. That's correct.**

13 Q. If I could ask you to kind of glance over
14 the text under that.

15 **A. Yes. I have read that.**

16 Q. Was this something you wrote?

17 **A. Well, it's got my name to it. I think the**
18 **information there would be pertinent to what I wrote**
19 **or it was perhaps edited by others. I'm not quite**
20 **sure, but certainly the facts are quite clear and**
21 **that's about right, yeah.**

22 Q. Okay. Thank you.

23 The name O'Neill Wetsuits, PTY, Ltd.,
24 was -- was that the name of one of your companies?

1 **A. That was the name of the O'Neill wetsuit**
2 **operation, yes, yes.**

3 Q. And, just for the record, what does the PTY
4 period --

5 **A. Proprietary limited.**

6 Q. Is that a form of a business company?

7 **A. It means that it's a registered company and**
8 **has limited liability.**

9 Q. Is that something that you would call a
10 company -- is that one thing you would call a company
11 in Australia?

12 **A. Yes.**

13 MR. RAYGOR: Objection. Calls for
14 speculation.

15 BY THE WITNESS:

16 **A. It's -- it's part of how you register**
17 **companies in Australia, yes. You would have PTY,**
18 **Ltd. following the name, proprietary limited.**

19 BY MR. BAGLEY:

20 Q. Okay. Thank you.

21 Okay. I think that's all of the
22 questions -- well, I will ask a few questions related
23 to this. It will sound like -- it may sound at the
24 beginning as a slightly different topic, but I wanted

1 to address some of the objections that opposing
2 Counsel made.

3 Mr. Arnold, this will sound like
4 different -- Mr. Arnold, are you represented by
5 anyone, by any lawyer, for purposes of this
6 deposition today?

7 **A. No.**

8 Q. Thank you.

9 I'm going to ask something that I
10 believe Mr. Raygor is going to ask you.

11 Have you had conversations with me,
12 Mark Bagley, before today?

13 **A. Yes.**

14 Q. Did we speak yesterday?

15 **A. Yes.**

16 Q. Is this exhibit something you showed me
17 yesterday?

18 **A. I'd say yes.**

19 Q. And I don't want to put words in your mouth.
20 I'm trying to show you where I'm going with this.

21 **A. Yes, yes.**

22 Q. Could you describe what happened just in
23 general terms with respect to the two pages in this
24 Exhibit 48.

1 **A. Well, it's quite simple. I did a photocopy**
2 **of this from Jack's book last week in Santa Cruz and**
3 **same with the front page.**

4 Q. Uh-huh.

5 Did you give these things to me
6 yesterday?

7 **A. Yes.**

8 Q. Thank you.

9 Also I'd like to --

10 MR. RAYGOR: Mr. Terceiro states that he had
11 it earlier. So it should have been produced.

12 MR. BAGLEY: All right. We can deal with
13 that later. I don't know that that is entirely
14 accurate, but we can deal with that later.

15 I mean, you know, do you want to deal
16 with this on the record now or should we --

17 MR. RAYGOR: It's up to you.

18 MR. BAGLEY: Okay. Well, I would like to
19 move on with the questions to the deponent.

20 MR. RAYGOR: Instead of saying you'd like
21 to, why don't you just move on.

22 BY MR. BAGLEY:

23 Q. Mr. Arnold, you mentioned just now a visit
24 to did you say Mr. O'Neill?

1 **A. This last week.**

2 Q. Last week?

3 **A. Yes.**

4 Q. What did you do? What happened?

5 **A. Well, first of all, I met Jack as an old**
6 **friend and a colleague, a business partner, of**
7 **course, and I wanted to inquire on his health, his**
8 **well-being because he's quite frail and, of course,**
9 **he always brings up the subject of the UGG boots.**

10 He says, John, I should have taken that
11 and I should have done that early back in the first
12 stages of our business involvement, and to him it was
13 something that he regrets that he didn't do but
14 certainly in his age at the moment now, of course,
15 it's not possible.

16 Q. So I understand that.

17 Did you -- did you visit him?

18 **A. Yes, I did, yes.**

19 Q. Where did you visit him?

20 **A. At his home in Santa Cruz, California.**

21 Q. Okay. Do you know a man, and this -- it's
22 going to sound like another topic, but do you know a
23 man named Carl Keehn?

24 **A. Yes. I do.**

1 Q. Who is he?

2 A. Carl is also a close friend, but he was the
3 financial controller of O'Neill's in Santa Cruz back
4 in the early '70s or, let's see, it could have been
5 late '60s, and he was the financial controller when
6 the company actually was forming in its early days
7 and importing products like the UGG boots from me.

8 So Carl I met also, and he then moved to
9 Australia after a number of years and has lived there
10 for the last 15 years.

11 Q. You said in the early days. In the early
12 days of what company?

13 A. O'Neill Incorporated in Santa Cruz where
14 they manufactured the wetsuits, retailed the
15 surfboards and other merchandise.

16 Q. So earlier just a minute ago you mentioned
17 he was in a position with O'Neill in the early
18 '70s?

19 A. It could have been late '60s. I'd have to
20 look back.

21 Q. Well, I wasn't asking you if that was the
22 only time I mean, but -- and again I'm asking you on
23 your knowledge.

24 And again this is -- and it would be

1 your knowledge and your interactions with this man?

2 **A. Yes.**

3 Q. To your knowledge, was he involved with the
4 O'Neill Company in say the early '60s?

5 **A. I can't answer exactly but, you know.**

6 Q. Okay.

7 **A. I really can't answer it.**

8 Q. All right.

9 **A. I mean, sure, I would say yes, and it could**
10 **be no I mean.**

11 Q. Well, look, I want to get your -- the best
12 what you remember. And if you don't remember, that's
13 fair because this was a very long time ago.

14 **A. Yeah.**

15 Q. Okay. Have you seen Mr. Keehn any time
16 recently?

17 **A. I saw him last week first time in 15 years**
18 **or 20 years.**

19 Q. Where did you see him?

20 **A. Santa Cruz, yeah.**

21 Q. Was it during the same trip when you were
22 visiting Mr. O'Neill?

23 **A. Yes. Jack invited him around for lunch**
24 **with me because he knew that we were good friends,**

1 all of us, and, of course, having Carl available in
2 Santa Cruz at the same time he thought it was a good
3 idea we go together for old times' sake.

4 Q. You talked about old times' sake?

5 A. Yes.

6 Q. Did you talk about UGG boots?

7 A. Of course, we did.

8 (WHEREUPON, Defendant's Deposition
9 Exhibit 49 was marked for
10 identification as of this date.)

11 BY MR. BAGLEY:

12 Q. I'm going to give you another exhibit. I'm
13 going to mark this one as Defendant's Deposition
14 Exhibit Number 49.

15 I will ask you to take a quick look at
16 that. I will give opposing Counsel time to look at
17 that as well.

18 A. Yep.

19 Q. Mr. Arnold, do you -- do you recognize --
20 oh, I'm sorry. Do you need some more time?

21 MR. RAYGOR: Objection, inadmissible
22 hearsay. Objection, lacks foundation.

23 BY MR. BAGLEY:

24 Q. If Counsel has no more objections at this

1 point, Mr. Arnold, do you recognize this document?

2 A. Yes. I do.

3 Q. What is it?

4 A. It's a letter written by Carl last week
5 really identifying his employment with O'Neill
6 Wetsuit. I guess that should be O'Neill
7 Incorporated, Santa Cruz.

8 MR. RAYGOR: Again inadmissible hearsay.

9 MR. BAGLEY: Please, go on. We will deal
10 with the objections later.

11 BY THE WITNESS:

12 A. And he mentions in here that he imported
13 UGG boots from John Arnold in the early '70s, and
14 I would put the soles on the UGG boots at
15 Santa Cruz.

16 MR. RAYGOR: Objection, inadmissible
17 hearsay, lacks foundation, not authenticated.

18 BY MR. BAGLEY:

19 Q. Mr. Arnold, did -- this has a -- this has a
20 date on it at the top of 14 April, 2017.

21 A. Yes.

22 Q. Do you remember what day you met with
23 Mr. Keehn?

24 A. The 14th, yeah, 14th.

1 Q. Did Mr. Keehn write this document when you
2 were with him?

3 A. He wrote this document when I was with him,
4 yes.

5 Q. Did you see him write it?

6 MR. RAYGOR: Excuse me. I couldn't hear.
7 He wrote this document what?

8 BY THE WITNESS:

9 A. He wrote this document when I was with him.

10 BY MR. BAGLEY:

11 Q. So you were in the room with him when he
12 wrote this?

13 A. Yes. I was.

14 Q. And did you see him sign it?

15 A. Yes. I did.

16 Q. Okay. Thank you.

17 MR. RAYGOR: Objection. Inadmissible
18 hearsay, lacks foundation, not authenticated.

19 MR. BAGLEY: Okay. I think that's all the
20 questions I have about that particular document.

21 BY MR. BAGLEY:

22 Q. Mr. Arnold, do you -- do you or did you know
23 a man named Terry McKendree?

24 A. Yes. I did.

1 Q. Who was he?

2 A. He was a gentleman that was -- had a surf
3 shop business in Jacksonville, Florida, and he became
4 a distributor for my surfboards and other products
5 from Australia probably late '60s, early '70s.

6 Q. Do you happen to remember how you met him?

7 A. I guess it came via -- it could have been
8 the Australian Trade Commission who were mentioning
9 to the surfing fraternity or the surfing shops on the
10 east coast that our business was active in exporting
11 surfboards and UGG boots to the United States, and he
12 responded.

13 I guess that's how it happened, but I
14 don't remember exactly the day, time, and place.

15 Q. Of course, that was a number of years ago.

16 A. Yes.

17 Q. And I completely understand that.

18 A. Yes.

19 Q. At the risk of asking you to repeat
20 yourself, did you sell items to Mr. McKendree?

21 A. Yes. I did.

22 Q. What items?

23 A. Surfboards, wetsuits, UGG boots, of course,
24 and there may have been other surfing items of small

1 nature, but I can't recall, things that could have
2 been packed with the surfboards.

3 Q. So when you shipped things to Mr. McKendree
4 or his business, was that the time when he would pack
5 the UGG boots in the same package as --

6 MR. RAYGOR: Objection.

7 BY THE WITNESS:

8 A. Yes.

9 MR. RAYGOR: Objection. Lacks foundation.

10 BY MR. BAGLEY:

11 Q. Earlier you described how you would pack
12 UGG boots into the same box with a number of
13 surfboards.

14 Did you do that with shipments to
15 Mr. McKendree?

16 A. Yes.

17 (WHEREUPON, Defendant's Deposition
18 Exhibit 50 was marked for
19 identification as of this date.)

20 MR. BAGLEY: I'm going to give you one more
21 exhibit to take a look at. I'm going to mark this
22 one as Defendant's Deposition Exhibit Number 50.

23 Mr. Raygor, this one has been produced
24 in this action before under the numbers AUL0066

1 through 67.

2 BY MR. BAGLEY:

3 Q. Mr. Arnold, I will ask you to take a look at
4 just starting with the first page, the top page of
5 that one.

6 A. Yes.

7 Q. Do you recognize that?

8 A. I recognize it as what it is, a front page
9 of Surfing magazine.

10 Q. Okay.

11 A. Yes.

12 Q. Are you familiar -- were you and are you
13 familiar with Surfing magazine?

14 A. At the time, I probably was, but now I -- I
15 would not be but let's say at that time.

16 Q. Okay. Good question.

17 In the -- let's say the early 1970s,
18 were you familiar with Surfing magazine?

19 A. Yes.

20 Q. What was it or how did you know it?

21 A. I think it was a publication mainly geared
22 to the east coast market of the U.S.

23 Q. Okay.

24 A. These things circulate in the industry. So

1 no matter where you are in the world you -- you --
2 you see it or you become aware of it, and it may have
3 been sent to me from Terry McKendree.

4 Q. Okay. If I could direct your attention to
5 the second page of this exhibit, and I will represent
6 to you that this is a page within the magazine that
7 the cover was the first page.

8 A. Yes.

9 Q. If I could direct your attention to the ad
10 at the top left where it says, "Australian Sandals."

11 A. Yes.

12 Q. And at the bottom, it says, "Australian
13 Imports Unlimited."

14 Do you -- you may have mentioned it
15 earlier. Do you know the name of that business? Do
16 you recognize it?

17 A. This was a company owned by Terry McKendree.

18 Q. Okay. Thank you.

19 Do you recognize any of the products
20 pictured in that --

21 A. Yes.

22 Q. -- advertisement?

23 A. Yes.

24 Q. Do you recognize all of them?

1 **A. All of them.**

2 Q. What are they?

3 **A. Sandals from our factory and UGG boots from**
4 **our factory.**

5 Q. So is it correct that all -- I see six items
6 here.

7 Were they all manufactured by your
8 company or your factory?

9 **A. I believe so, yeah.**

10 Q. Okay. And within that ad on the lower
11 right, there is a white boot with the words "UGG
12 Boot" there.

13 **A. Yeah.**

14 Q. Is this the UGG boot that we have been
15 talking about all day today?

16 **A. That's correct.**

17 Q. So do you recognize that as coming from --
18 that item as coming from your factory?

19 **A. Yes. It was, correct.**

20 Q. Thank you. I have just really a few more
21 questions.

22 Earlier you had mentioned that you sold
23 items to countries other than the U.S. So let me try
24 to ask a good question.

1 Did you sell UGG boots to countries
2 other than the United States and Australia?

3 **A. Yes.**

4 Q. What other countries?

5 **A. Japan and United Kingdom.**

6 Q. Okay. And do you remember about what
7 timeframes, eras, or years you sold to those
8 countries?

9 **A. It would be late '60s, early '70s.**

10 Q. And I asked about the UGG boots.

11 Did you also sell surfboards to those
12 countries?

13 **A. Yes. Same principle of the boards and the**
14 **boots all going as one package, yes.**

15 Q. And would you sell to -- what types of
16 stores or companies in those countries?

17 **A. I had a distributor located in the Channel**
18 **Islands, Jersey, and Jersey is a favorable area for**
19 **certain people to set up businesses, and the**
20 **distributor was located there, and he would then**
21 **wholesale them to other surf shops in the U. K.**

22 Q. Was there anything similar with -- well,
23 strike that.

24 What kind of companies or businesses did

1 you sell to in Japan?

2 **A. Surf shops, but I had a distributor in**
3 **Japan, and he took bulk quantity and then sub-sold to**
4 **other surf shops in smaller quantities.**

5 Q. My only remaining question -- and we touched
6 upon this a bit earlier.

7 You had said at some point, and I'll let
8 you tell me what years it was, but you sort of got
9 away from selling UGG boots.

10 Did you also get away from selling all
11 products to the United States?

12 **A. As far as I can recall, yes.**

13 Q. Do you recall -- and this is, you know, for
14 reminding me so I don't put a number in your mind --
15 about what year or years you generally stopped
16 selling products to the United States, the
17 surfing-related products?

18 **A. Around '76.**

19 Q. And what -- why? What were the reasons for
20 that?

21 **A. Okay. In '76, some of my companies ran**
22 **into difficulties with what we call interlocking**
23 **funding.**

24 Q. Okay. And with those difficulties then did

1 you -- were you required -- well, did you cease --
2 okay. Strike that. I think you have answered that
3 question.

4 Were there any other reasons did you
5 stop selling to the United States?

6 **A. Well, I lost control of my companies.**

7 Q. Okay. That would be a reason certainly.

8 **A. Not all of them. It's the parts that were**
9 **related to the clothing and the wetsuits because of**
10 **borrowings from the Australian government who held my**
11 **shares.**

12 **So, in effect, I was not able at that**
13 **stage to continue effectively because they had my**
14 **shares.**

15 Q. Okay.

16 **A. So I said it's your company.**

17 Q. Fair enough.

18 I think -- but this was a
19 financial-related issue?

20 **A. Yes. I said, You look after it.**

21 MR. BAGLEY: Okay. I think that's all of
22 the direct questions I have at this point. Should we
23 take a break?

24 MR. RAYGOR: Yeah. Why don't we take a

1 break for about ten minutes. You can go out and
2 stretch your legs, hit the restroom.

3 THE WITNESS: Okay.

4 MR. RAYGOR: Get something to drink.

5 THE WITNESS: All right.

6 MR. RAYGOR: And we'll come back, and I'll
7 try to be short.

8 THE VIDEOGRAPHER: Going off the record at
9 11:17 a.m.

10 (WHEREUPON, a brief pause was had
11 in the proceedings.)

12 THE VIDEOGRAPHER: Going back on the record.
13 This marks the beginning of Disk Number 2. The time
14 is now 11:26 a.m.

15 Please, proceed.

16 EXAMINATION

17 BY MR. RAYGOR:

18 Q. Good morning still. I think it's still
19 morning.

20 MR. BAGLEY: I believe it is.

21 MR. RAYGOR: Yes. It is.

22 THE WITNESS: You're okay.

23 BY MR. RAYGOR:

24 Q. So good morning.

1 When did you first get to the U.S. this
2 trip?

3 **A. I arrived on the morning of the 13th, and**
4 **that was it.**

5 Q. And went to Santa Cruz?

6 **A. Drove to Santa Cruz, yes.**

7 Q. And on your way to Chicago?

8 **A. Yes. After I left Santa Cruz, it was the**
9 **15th I think and I came here.**

10 Q. When do you go back?

11 **A. Planning on the 19th.**

12 Q. And is that back to Dubai?

13 **A. Back to Santa Cruz and then a flight to**
14 **Dubai.**

15 Q. Okay.

16 **A. So it will be the 20th, yeah, or**
17 **thereabouts.**

18 Q. And how many times have you spoken with
19 Mr. Bagley across the table here?

20 **A. Oh, maybe once or twice by telephone.**

21 Q. And that was before your trip to the U.S. on
22 this trip?

23 **A. Yes.**

24 Q. Okay. When was the first such call?

1 **A. I can't recall, weeks ago.**

2 Q. Weeks instead of months?

3 **A. I think weeks.**

4 Q. Okay. And do you recall what -- any of the
5 substance of that conversation?

6 **A. Only related to this action that's going on.**
7 **That's about all.**

8 Q. And did he ask you whether you would be
9 willing to sit for a deposition?

10 **A. Yes. He did.**

11 Q. Did he ask whether you would do so
12 voluntarily or did he need to do it in Australia?

13 **A. First I -- I was indicated I'd be in**
14 **Australia by May 1st. That got cancelled because I**
15 **had other things that I had to attend to elsewhere,**
16 **and I said I'd be prepared to come to the U.S. if**
17 **that was convenient for all parties. So that's why**
18 **I'm here.**

19 Q. Okay. Anything else in that first telephone
20 conversation with Mr. Bagley that you can recall?

21 **A. Nothing that I can recall other than what**
22 **we've covered I think in -- in the short version**
23 **today, you know, just core things.**

24 Q. Core things about your background as far as

1 your business?

2 A. Not -- not in detail, no. It was not in any
3 detail.

4 Q. Just general?

5 A. General.

6 Q. What about the second conversation with
7 Mr. Bagley, the telephone call.

8 Do you recall anything about that one?

9 A. General again, general. That's about it.

10 Q. Was it also involving logistics for
11 appearing for this deposition, where and when, that
12 kind of thing?

13 A. Oh, it came up, yes, would I be prepared to
14 come here, and I said, That's okay because I'm not
15 going to Australia at the moment, and it was equally
16 the same distance.

17 Q. And so you came here.

18 Who paid for -- are you being paid at
19 all for your time --

20 A. No.

21 Q. -- for coming here?

22 A. No, no.

23 Q. Have you asked to be paid for your time?

24 A. Oh, I think I might now.

1 Q. You should.

2 A. Yes.

3 Q. The going rate is five or \$600 an hour.

4 MR. BAGLEY: Thank you, Mr. Raygor.

5 BY THE WITNESS:

6 A. I'm with you on that.

7 MR. RAYGOR: And you should be paid.

8 BY MR. RAYGOR:

9 Q. And who is paying for -- did somebody pay
10 for your flight?

11 A. I did with the vision that it might be
12 reimbursed or could be reimbursed.

13 Q. Has anybody told you that they will
14 reimburse you for that flight?

15 A. I have a mail from Mr. Mark that he
16 indicated that it would be reimbursed, yes.

17 Q. Is that true also for your hotel?

18 A. Hotel, yes.

19 Q. Okay. And I met your daughter earlier
20 today.

21 Was the reimbursement covering her too?

22 A. No way.

23 Q. Just for yours?

24 A. Yes.

1 Q. Did you fly business or coach?

2 A. Well, let me explain to you, and this you
3 probably won't believe.

4 We're very friendly with the airlines at
5 high level. So we can travel at business class at
6 the cost of economy.

7 Q. I do believe that since I get the same
8 thing.

9 A. Yes.

10 Q. Very good.

11 And so as far as -- let me just
12 summarize.

13 The total of what you will be paid
14 for participating in this deposition would be
15 reimbursement for your air, just your air ticket, at
16 a coach price and hotel.

17 Anything else? Meals? Anything like
18 that?

19 A. I think only just bits and bits, you know.
20 It would be petty cash.

21 Q. Okay.

22 A. Yeah. Here you've got a bit. Here you've
23 got a bit, minor things.

24 Q. Is that it?

1 **A. Yeah.**

2 Q. Has anybody talked to you about appearing at
3 a trial in this case in case it does go to trial in
4 front of a judge?

5 **A. No.**

6 Q. And have you ever spoken with -- so you
7 had those two conversations by telephone with
8 Mr. Bagley.

9 You met with him yesterday, correct?

10 **A. Yes.**

11 Q. In person?

12 **A. I did, yes.**

13 Q. Okay. Where was that?

14 **A. Hotel and his home.**

15 Q. Okay.

16 **A. He kindly gave me an invitation to his home**
17 **for dinner which I gladly accepted because I was**
18 **hungry and it was a nice dinner.**

19 Q. Did he cook?

20 **A. Sorry.**

21 Q. Did Mr. Bagley cook?

22 **A. I think his wife did all of the cooking, but**
23 **he might have had a hand in it. I don't know, but it**
24 **was exceptionally good. I would recommend it.**

1 Q. How long did you meet with him at the
2 hotel?

3 A. **Oh, just two or three minutes just picking**
4 **me up and taking us, yes.**

5 Q. And how long were you with him there last
6 night?

7 A. **I think probably two hours, three hours.**

8 Q. Did you talk at all about today's deposition
9 and what might -- the types of things that might come
10 up or be asked?

11 A. **Briefly, not totally because he had his**
12 **family and, of course, family discussions.**

13 Q. Putting aside the family-type discussions,
14 you know, the personal stuff, just talking about this
15 deposition, about how much time did you spend last
16 night?

17 A. **Oh, I would think 30 minutes.**

18 Q. Okay. And can you recall for me what kinds
19 of things you discussed with Mark?

20 A. **Those things that were relating to my**
21 **background which he probably doesn't really know much**
22 **about and neither does too many people.**

23 Q. Was there any discussion of what questions I
24 might ask?

1 **A. No.**

2 Q. There was -- he indicated that you brought
3 this Exhibit 48 which was the Jack O'Neill --

4 **A. Sure.**

5 Q. -- portions of the cover and a page?

6 **A. Yes.**

7 Q. Did you bring the book itself or just the --

8 **A. Oh, no. I didn't bring the book. They're**
9 **unavailable. So if I could get one for you, I would**
10 **do it, but maybe on Amazon you can get them or eBay**
11 **or something.**

12 Q. Did you bring any other documents with
13 you --

14 **A. No.**

15 Q. -- other than this?

16 Just this two-page document?

17 **A. Yes.**

18 Q. Have you ever spoken or communicated with an
19 Australian attorney called Michael Terceiro?

20 **A. Briefly, yes.**

21 Q. About how long ago was that?

22 **A. Two months.**

23 Q. And was it a phone call or an e-mail?

24 **A. Phone call.**

1 Q. Do you recall what was the substance of that
2 conversation?

3 A. He told me there was some action going
4 between A and B, that's your company and another
5 company, and would I be prepared to speak in Sydney
6 or wherever if I was in Australia, and I said,
7 Yeah, I'm happy to tell you the facts, and we left it
8 at that.

9 And then I said to him later that I
10 won't be coming to Australia at the time that -- that
11 was originally suggested; and as a result, that's why
12 I'm here today.

13 Q. Okay. Anything -- did you discuss with
14 Mr. Terceiro anything about the nature of the claims
15 being asserted in this case?

16 A. I did ask could he give me a brief outline
17 as to what was happening and why it was necessary to
18 speak about this matter, and he did give me a -- a --
19 a general overview, yeah.

20 Q. Okay. And apart from that, did you have any
21 e-mail exchanges with him?

22 A. Brief ones.

23 Q. Did they contain anything of substance?

24 A. No.

1 Q. Was it more about the logistics of having a
2 deposition taken?

3 **A. More about what the overall framework was**
4 **happening between A and B company.**

5 Q. As I said at the very beginning of this, I
6 represent I think the A company --

7 **A. Yes.**

8 Q. -- Deckers Outdoor Corporation which is a
9 company in Santa Barbara or just outside of
10 Santa Barbara, and the B company is Mr. Bagley's
11 client, a company called Australian Leather PTY,
12 Limited.

13 Have you ever heard of Australian
14 Leather PTY, Ltd. before this --

15 **A. No.**

16 Q. -- dispute?

17 **A. No.**

18 Q. It's owned by --

19 **A. I can say to you only what I've read in the**
20 **newspapers.**

21 Q. Okay. What have you read in the newspapers?

22 **A. There was some controversy going on between**
23 **his ability to sell his boots in various countries.**

24 Q. Do you recall which countries?

1 A. I think U.S., but it may have been others as
2 well. I didn't take much notice of it because it's
3 quite boring, not important to me, important to you
4 and others I know.

5 Q. Do you recall anything else in that article
6 about the nature of the dispute or --

7 A. The only thing I understand it to be is that
8 the brand UGG boots is -- is registered to Decker;
9 and as a result, other parties are not able to sell
10 that product into the U.S. if they are coming from
11 another country or perhaps other parties within the
12 U.S. are not able to use that brand. That's what I
13 understand.

14 Q. Okay. And apart from that news article that
15 you had seen and in discussions in connection with
16 giving this deposition, is there anything else
17 you've ever heard of about Australian Leather PTY,
18 Limited?

19 A. No, nothing.

20 Q. Have you ever heard of its owner, a man
21 named Adnan, A-d-n-a-n, Oygur, O-y-g-u-r?

22 A. No.

23 Q. Sometimes goes by the name of Eddie Oygur.

24 A. No. I don't know that name.

1 Q. You've never talked to him?

2 A. No. If I have talked to him, it's unknown
3 to me. I mean, it would be by pure accident, but I
4 don't know the name and haven't spoken to him.

5 Q. Okay. You mentioned that, let's see, that
6 you registered UGG boot as a business name in the
7 early 1960s?

8 A. Yes, yes.

9 Q. Do you think it was 1971?

10 A. Could have been.

11 Q. I will ask to be marked as Exhibit 51 a
12 document which -- a document which is a printout from
13 an Australian corporate registration commission.

14 A. Yes, okay.

15 Q. Which I just received a few minutes before
16 this deposition started.

17 (WHEREUPON, Arnold Deposition
18 Exhibit 51 was marked for
19 identification as of this date.)

20 BY MR. BAGLEY:

21 Q. Do you see --

22 A. Oh, that's when it was cancelled.

23 Q. What's that?

24 A. It says here that's when it was cancelled.

1 Q. In 2012?

2 A. The 12th of August, '71 -- date registered
3 12th of August, 1971. Date cancelled 27 May, 2012.

4 Q. And it doesn't have your name or your
5 company's name anywhere on this, but does this
6 refresh your memory that it was -- that you
7 registered?

8 A. Yeah. I did register it.

9 Q. In 1971?

10 A. I maybe even had it earlier, but I may have
11 had it lapse and then re-registered it.

12 Q. Do you know if it was cancelled in May of
13 2012?

14 A. That I can't say because that 2012 --
15 because that's -- that's fairly recent in the real
16 sense.

17 Q. And you are no longer --

18 A. No.

19 Q. -- active in the business since --

20 A. No.

21 Q. -- 1978 or thereabouts, right?

22 A. See, that being cancelled in 2012 really has
23 me worried. Who -- who was continuing the
24 registration? Not me. Somebody is paying the

1 **registration fee.**

2 Q. In your back-and-forth question and answer
3 with Mr. Bagley, you talked about your trip to
4 California in 1958.

5 A. **Yeah.**

6 Q. And you were 18 years old at the time or
7 thereabouts?

8 A. **Could have been 19, yeah.**

9 Q. And you spent roughly seven months in the
10 U.S.?

11 A. **It could have been eight.**

12 Q. But roughly somewhere in that time?

13 A. **Seven or eight months, yes.**

14 Q. And you said you traveled throughout
15 northern California, southern California, Florida, up
16 the east coast, across the central part of the U.S.,
17 and you said to Mexico too?

18 A. **Mexico and Canada.**

19 Q. Okay. In all of those travels around the
20 U.S. at that time, did you ever hear of anybody using
21 the phrase "UGG boots" or referring to UGG?

22 A. **No, never.**

23 Q. Do you know who John Robertson is?

24 A. **Oh, yes. John Robertson, I'm going back on**

1 memory now. He would have been an export agent at
2 the time that was promoting our products into the
3 U.S.

4 Q. You remember there was some discussion
5 of selling product to -- boards and such to
6 Terry McKendree in Jacksonville, Florida.

7 A. Yes.

8 Q. Do you know if -- at that time period I
9 think you said late '60s, early '70s, was John --
10 was John Robertson involved in facilitating those
11 shipments, that export?

12 A. Yes, yes.

13 Q. Did he work with you in facilitating exports
14 of product -- your product to the U.S.?

15 A. He was working I think as a consultant for a
16 large food company that had tax problems; and by
17 exporting product, they could eliminate some of their
18 tax problems.

19 So I think from memory the -- the
20 facilitation was in order to bring about lowering
21 their tax liabilities through exports. Now, how it
22 all worked, I can't remember, but certainly he was a
23 facilitator engaged with the food company.

24 Q. And did he -- was there in place at about

1 that time some sort of arrangement with the
2 Australian government where they would compensate
3 people for marketing costs by shipping -- if they
4 were to export product from Australia to the U.S.?

5 **A. Marketing costs were permissible under the**
6 **Australian tax system for exports to other countries,**
7 **and the -- the allowance was I think about from**
8 **memory maybe \$100,000.**

9 Q. So when you say permissible, do you mean
10 that if you -- if you, John Arnold, incurred
11 marketing costs --

12 **A. Yes.**

13 Q. -- for exportation let's say to the U.S.
14 that the government would reimburse you for those
15 costs?

16 **A. I don't think they directly reimbursed.**
17 **They would provide some tax relief from memory. I**
18 **don't know how it works -- works anymore. It's all**
19 **obsolete, but there was incentive to increase exports**
20 **and the government, Australian government, would help**
21 **in certain ways towards those marketing costs.**

22 Q. It could be like here we would call it a tax
23 deduction, perhaps a business deduction?

24 **A. Sure. It fit into that sort of framework.**

1 **So that if I had a tax liability and I'm exporting, I**
2 **would have that as an additional form of compensation**
3 **somehow.**

4 Q. And was John Robertson somebody with whom
5 you worked at about that time period to help with the
6 exportation to the U.S.?

7 A. **Yes. He was a specialist in this field.**

8 Q. Did all of your exports to the U.S. go
9 through him in that time period?

10 A. It didn't go through him personally. I
11 think he facilitated that and encouraged it. Maybe
12 he was being paid by the food company to help that
13 flow along, and the food company would pay us, and
14 they would then use the export sale off their tax
15 records, yeah.

16 Q. Was he involved at all in the actual
17 shipment of the product?

18 A. **No, no, no.**

19 Q. Because we took Terry McKendree's
20 deposition, and he testified that he got your product
21 through John Robertson.

22 A. Oh, that probably could have been, right,
23 because I was explaining to you that John Robertson
24 from memory was a consultant to a large food company,

1 and they then had a tax problem that they had to
2 lower, and these export sales would, in fact, lower
3 some of their problems; and as a result, it was a
4 financing line for our company. In other words,
5 they would subfinance the production as it was going
6 along.

7 Q. You talked a little bit about the way that
8 you would -- you had a unique way at that time, and
9 it was a great idea by the way -- of removing the
10 fins --

11 A. Yes.

12 Q. -- from the bottom and the back of the
13 board?

14 A. That's correct.

15 Q. And then you were able to ship three boards,
16 four boards, whatever, multiple boards together?

17 A. Correct.

18 Q. You would put the fins I assume separately
19 wrapped in the same package?

20 A. Correct.

21 Q. And then you would sort of buffer everything
22 with UGG boots?

23 A. UGG boots, correct.

24 Q. Around the side?

1 **A. Yes.**

2 Q. And around the back.

3 So let's pick Terry McKendree as an
4 example. When you would -- I think you mentioned you
5 shipped boards to him, correct?

6 **A. Yes. We did.**

7 Q. And they would be packed with some UGG
8 boots?

9 **A. Yes.**

10 Q. Do you recall how you invoiced that shipment
11 for the boards?

12 **A. A regular commercial invoice.**

13 Q. And would -- did the invoice list the boards
14 as well as the UGG boots?

15 **A. Oh, yes, yes, yes. Everything was invoiced.**

16 Q. So the UGG boots that were shipped with it
17 weren't just there for packaging and like a freebie?

18 **A. Oh, no, no. They were charged.**

19 Q. That's what I was getting at. They were
20 actually sold?

21 **A. Sold and charged to the client, and the**
22 **benefit he got was the freight angle inasmuch as the**
23 **volume of the freight was going anyway for the**
24 **boards. So packing the boots around the boards meant**

1 that they got their freight free, freight cost free
2 virtually. Although you could allocate some space
3 cost to them if you really were an accounting guru,
4 but technically they got their free of freight cost
5 because the boards carried the cost of the transport,
6 and the boots virtually as you can see in that
7 advert, U.S. \$12.95. So he must have bought them for
8 \$6.00, right?

9 Q. Do you recall what your invoices -- do you
10 have any of your invoices or --

11 A. Unfortunately, no.

12 Q. -- from that time period?

13 A. But they could be -- they could be obtained
14 I think.

15 Q. How?

16 A. How? Through the Customs Department, old
17 records.

18 Q. Australian customs?

19 A. Yeah because all of the entries must be
20 logged in; and if we went back to that time, I'm sure
21 that we could locate documents.

22 Q. Do you recall speaking about customs were
23 they drop shipped directly to Terry McKendree or did
24 they go to some port of entry first in the U.S.?

1 **A. No. They went to Jacksonville air freight.**

2 Q. Directly from Adelaide?

3 **A. From Adelaide, yes.**

4 Q. To Jacksonville?

5 **A. Though they would have stopped at various**
6 **places along the way, transshipments.**

7 Q. But as far as going through U.S. customs,
8 would they go through U.S. customs in Jacksonville?

9 **A. Oh, at some point when they -- when they**
10 **reach an area where that sort of has to be declared,**
11 **I think that would be at Jacksonville. I'm not**
12 **sure.**

13 Q. Okay. Apart from what customs might have,
14 you don't have -- you, yourself, no longer have any
15 business records from the company?

16 **A. No; but in Australia, they would be in the**
17 **Customs Department there on the export entries.**

18 Q. I think you stated that your business --
19 your surf shop business was bought by somebody in
20 Adelaide in around 1977?

21 **A. Yes.**

22 Q. Do you recall who it was?

23 **A. J. R., Jim Rawson.**

24 Q. Is that R-a-w-s-o-n?

1 **A. Yes.**

2 Q. And is it still operating?

3 **A. Yes.**

4 Q. What's it called today?

5 **A. I think J. R. Surf Shop.**

6 Q. Did he change the name once he bought it
7 from you?

8 **A. Not immediately, but he did over a period of**
9 **time.**

10 Q. Who came up with the name UGG boot? Was it
11 you or Charlie Spencer?

12 **A. A combination with both.**

13 Q. Sitting around over a beer one night?

14 **A. Those sort of things.**

15 Q. Pretty much?

16 **A. Yes, backyard garage talk.**

17 Q. Did a light bulb --

18 **A. There wasn't -- there wasn't anything in**
19 **regard to this is a hot name for a boot. This was**
20 **just something that evolved.**

21 Q. After that trip around the U.S. in 1958, the
22 seven or eight months, and Canada and Mexico, when
23 was the next time you came to the U.S.?

24 **A. Late '60s, late '60s I believe.**

1 Q. What was the purpose of that trip?

2 A. To visit the surf shops on a promotional
3 tour to expand the board sales and UGG boot sales and
4 along with other products from our business
5 operations.

6 Q. About how long were you in the U.S. on that
7 trip?

8 A. I think at least two months both east and
9 west coast.

10 Q. Can you pin it down any closer as far as
11 when you say late '60s? Could it have been early
12 '70s?

13 A. It was to see Terry McKendree. So if
14 Terry McKendree was importing boards early '70s, it
15 would be that time. I could get further definition
16 from my colleague who was with me. He probably would
17 remember.

18 Q. And how about the next trip? Do you
19 remember the next time to the U.S.?

20 A. Not many, no. I can't recall any recently
21 in the last many years. I was over here meeting Jack
22 about nine years ago.

23 Q. Let me put it this way.

24 So until '77-'78 when you sold your

1 business, did you make any trips between the second
2 trip you just discussed to the U.S. and when you sold
3 the business in Adelaide?

4 A. I think I did. I think I made regular trips
5 to be honest with you. I'm just thinking back now.
6 This is scratching the memory now.

7 Yes, I believe I made regular trips here
8 for one or two weeks at a time. They were lightening
9 trips east and west coast.

10 Q. Lightening you mean quick?

11 A. Fast, yeah, to do particular things,
12 research. Like it was the clothing business which
13 we had under license from Don Rancho in California
14 and relating to the people that I knew that were
15 connected to the clothing and -- and board business
16 and the sheepskin business.

17 Q. And you mentioned a license that you had
18 from a Don Rancho?

19 A. Yeah, for the clothing. That was Golden
20 Breed.

21 Q. Okay. So the Golden Breed business that you
22 had was a license from an American company?

23 A. Correct.

24 Q. And what kind of clothing was it?

1 **A. That was like Hang Ten clothing, striped**
2 **T-shirts and so forth, yeah.**

3 Q. Was that a license for your sales of that
4 clothing and that brand in Australia?

5 **A. Australia, yes.**

6 Q. Anywhere else?

7 **A. Pretty much wherever we wanted to go if we**
8 **wanted to but mainly Australia.**

9 Q. Meaning did you have a license to also sell
10 Golden Breed stuff or I guess Don Rancho in the
11 U.S.?

12 **A. No. I didn't bother to be honest with you.**
13 **We had enough work to do within Australia. That was**
14 **of no interest to me.**

15 Q. Could you pull up this Exhibit 50? This is
16 the color Surfing magazine.

17 **A. Yep.**

18 Q. Do you see on the front at the very top
19 where it says \$1.00?

20 **A. Yeah.**

21 Q. And it's got a U. K. and a Sweden krona. Do
22 you see that?

23 **A. Yeah.**

24 Q. Have you ever seen the U.S. version of this

1 magazine?

2 MR. BAGLEY: Objection. That lacks
3 foundation as to whether this is a U.S. version of
4 the magazine.

5 MR. RAYGOR: Exactly.

6 BY THE WITNESS:

7 A. I believe I have seen this, seen this U.S.
8 publication before.

9 BY MR. RAYGOR:

10 Q. I'll -- I'll represent I've got these, and
11 this is a different version from what was distributed
12 in the U.S.

13 Have you ever seen that? Before you
14 were shown this by Mr. Bagley, did you ever see that
15 ad on the second page?

16 A. Repeat that again.

17 Q. Before you were shown this by -- this
18 Exhibit 50 by Mr. Bagley, did you ever see that ad on
19 the second page?

20 A. Yes. I have seen that ad before, yes.

21 Q. Okay. Did you design it?

22 A. I think Terry McKendree might have. I --
23 I must say to you we may have had some involvement in
24 it from Adelaide.

1 Q. Do you recall one way or the other exactly
2 if you did?

3 A. We had our own Advertising Department
4 in-house. So I would say to them, Please provide an
5 ad to Terry McKendree, and they would do it.

6 Q. Do you recall specifically if that happened
7 in this instance for this magazine?

8 A. I can't recall exactly, but I -- I would
9 probably by the look of it and the sandal photographs
10 and everything it probably came from their place.

11 Q. Do you recall if McKendree advertised in any
12 publication other than Surfing magazine?

13 A. I don't know to be honest with you. I did
14 see Surf, not only this but others he did.

15 Q. Other ads that he did?

16 A. Yeah, relating to the boots.

17 Q. In what kind of publications?

18 A. Surfing magazines. If he had them in other
19 magazines, I can't remember.

20 Q. So you mean you saw other ads from him in
21 Surfing magazine?

22 A. Yes.

23 Q. Okay.

24 A. There was more than this one.

1 Q. More than this one issue?

2 A. Yes, yes.

3 (WHEREUPON, Arnold Deposition
4 Exhibit 52 was marked for
5 identification as of this date.)

6 BY MR. RAYGOR:

7 Q. Okay. Next I will mark for identification
8 as Exhibit 51 -- no, 52, a one-page document bearing
9 production number AUL39.

10 A. Okay.

11 Q. Down at the bottom, it says, John Weston
12 Arnold.

13 Is that your signature?

14 A. That's my signature, yes.

15 Q. Right under where it says 9th October,
16 2004?

17 A. Yes, yes.

18 Q. Did you sign this in the Australian
19 Consulate in Dubai?

20 A. Yes.

21 Q. I see the stamp right below that.

22 A. Yes.

23 Q. Up at the top, it has, "I, John Weston
24 Arnold, of 4 Olive Road, Maylands, M-a-y-l-a-n-d-s,

1 South Australia, 5069."

2 What address is that?

3 **A. That's a home address.**

4 Q. Was that your residence at that time?

5 **A. That's one of several.**

6 Q. Okay. And then next it says, "Occupation:
7 Manager."

8 What was -- manager of what at that time
9 in 2004?

10 **A. I think this came to me, yes. "Occupation:**
11 **Manager," that would be relating to occupation in**
12 **Dubai.**

13 Q. Okay. And your occupation in Dubai at that
14 time is manager of what?

15 **A. Manager.**

16 Q. What were you managing?

17 **A. Managing packaging business for food, food**
18 **products. That was back in -- what date is this?**

19 Q. It says 2004.

20 **A. 2004, yes, correct.**

21 Q. When did you move to Dubai?

22 **A. 1998.**

23 Q. It must have changed astronomically much
24 since then?

1 **A. Yes, piece of sand into a megaton city.**

2 Q. Amazing.

3 So anyway do you recall preparing this
4 Statutory Declaration?

5 **A. Yes, yes.**

6 Q. Were you asked by somebody to do so?

7 **A. Yes.**

8 Q. Who?

9 **A. Somebody in Perth. I can't recall his name.**
10 **I -- I -- I would if I looked up e-mails and stuff,**
11 **but they -- there was a group of people. I think**
12 **they called themselves Australian Sheepskin**
13 **Manufacturers Association or something like that, and**
14 **they asked would I help and give a statement relating**
15 **to my previous activity with UGG boots.**

16 Q. And did you type this statement up or did
17 you say it and it was typed up?

18 **A. No. I -- I think I typed it up.**

19 Q. Okay. What -- did you have a business at
20 142 Gawler --

21 **A. Yes.**

22 Q. -- Place, Adelaide?

23 **A. Yes.**

24 Q. G-a-w-l-e-r?

1 **A. Yes.**

2 Q. What business was that?

3 **A. John Arnold Surf Shop, Arnold's Leather and**
4 **Gear Shop, O'Neill Wetsuits, Golden Breed Clothing.**

5 Q. Have you ever entered into any sort of
6 business arrangement or deal with Deckers?

7 **A. No.**

8 Q. When did you first hear of Deckers?

9 **A. Probably only in the last ten years.**

10 Q. I might be done. So just let me -- bear
11 with me a minute.

12 **A. No, please.**

13 Q. You discussed a little bit about sales of
14 UGG boots to -- and boards to Jack O'Neill.

15 **A. Yes.**

16 Q. And how would the shipment -- like
17 Terry McKendree, the same kind of thing, would you
18 just ship directly to Jack O'Neill?

19 **A. Jack probably from memory only took the**
20 **boots. He had no need for the surfboards because he**
21 **was a manufacturer of surfboards in his own right.**
22 **So he had no need, but he may have taken a few for**
23 **branding purposes because under our surfboard labels**
24 **we had endorsed some of the top surfers of the world**

1 and, therefore, the surfboards were in demand because
2 of that brand association with those particular
3 surfers.

4 So that would be the only reason he
5 would take the boards. Taking a surfboard for a
6 surfboard sake wouldn't be a worthwhile proposal.
7 Taking a surfboard that has a particular brand
8 attached to it would be important.

9 So he mainly bought the boots for retail
10 purposes in his shop in Santa Cruz and wholesale to
11 some other associates of shops nearby or whenever and
12 on the west coast.

13 Q. I've actually seen one of your boards.

14 A. Thank you. Please, get it.

15 Q. I imagine the person who has it wouldn't
16 want to sell it now. He's got quite a collection.

17 A. Wow, some of the prices. I wish I was
18 getting that sort of money for them, but they were
19 hot.

20 Q. He swears by it. He said it was amazing.

21 The sales of the boots by Jack O'Neill,
22 was that just through his Santa Cruz shop?

23 A. Mainly, yes. That's my understanding.

24 Q. Do you know if he sold it any other way?

1 A. Wholesale I believe some to other surf
2 shops, but you would have to check his records for
3 that.

4 Q. You -- you don't have any specific records
5 or --

6 A. No.

7 Q. -- knowledge of that?

8 A. I -- I think through this gentleman,
9 Carl Keehn, he might be able to help on that because
10 he would probably have access to old records.

11 Q. But you don't have any knowledge of it
12 today?

13 A. No, no. I wouldn't be privy to that
14 information. I mean, he might have told me but, you
15 know, I wouldn't remember that. It would be just
16 casual talk.

17 MR. RAYGOR: Nothing further from me at the
18 moment.

19 THE WITNESS: Okay. Thank you, sir.

20 MR. BAGLEY: If we can go off the record for
21 just a minute or two so I can make sure that I get my
22 thoughts together, and then we can finish up.

23 THE VIDEOGRAPHER: Going off the record at
24 12:05 p.m.

1 (WHEREUPON, a brief pause was had
2 in the proceedings.)

3 THE VIDEOGRAPHER: Going back on the record
4 at 12:07 p.m.

5 Please, proceed.

6 FURTHER EXAMINATION

7 BY MR. BAGLEY:

8 Q. Mr. Arnold, I just have a few more follow-up
9 questions about a number of the topics Mr. Raygor
10 just asked you about.

11 You talked briefly about you were
12 perhaps originally going to give a deposition in
13 Australia with regard to this case, and I just wanted
14 to clarify a little bit.

15 Was that always -- was any deposition
16 you were going to give for this case, was that always
17 on a voluntary basis?

18 A. Yes.

19 Q. And you had mentioned plans changed.

20 Had you previously had plans to be in
21 Australia during the month of April?

22 A. Yes.

23 Q. Of this year?

24 A. Yes.

1 Q. And when you still had those plans -- strike
2 that.

3 In previous conversations with
4 Mr. Terceiro, had you arranged to give this
5 deposition while you were already on a trip to
6 Australia?

7 **A. Yes.**

8 Q. But due to your own reasons, did your plans
9 to travel to Australia then change?

10 **A. Yes.**

11 Q. Thank you.

12 This is a real small point, but I just
13 want to try to get a clean record.

14 I believe Mr. Raygor asked you if you
15 brought any other documents with you on this trip,
16 and you said it was just the excerpt or photographs
17 or photocopies from Mr. O'Neill's book.

18 **A. Yes.**

19 Q. If I could refer you to Exhibit Number 49.
20 It's the handwritten letter in blue ink.

21 **A. Yes, yes, yes.**

22 Q. Did you bring that with you?

23 **A. Yes. I did.**

24 Q. Okay. I just wanted to get a clarification

1 there. I thought it might be clear from the record,
2 but I --

3 **A. Yes.**

4 Q. -- just wanted to make sure.

5 **A. Yes. I did.**

6 Q. Okay. I believe Mr. Raygor asked you if
7 you shipped items directly to Terry McKendree's
8 company.

9 **A. Yes.**

10 Q. And I believe he was asking in terms of drop
11 shipped versus something else.

12 Do you know what -- what is a drop
13 shipment?

14 **A. I -- I -- you'll have to explain this,**
15 **please.**

16 Q. Oh, well, I don't know what it means. So I
17 was asking what -- what you thought it meant.

18 **A. Is it an American term? I don't know.**

19 Q. Well, okay. If you don't know what it
20 meant -- it means, let me try to ask it this way.

21 Is it true that you shipped some
22 products directly to Terry McKendree in Florida?

23 **A. Yes.**

24 Q. As far as you can remember?

1 A. Yes.

2 Q. Do you know if Terry McKendree arranged for
3 or organized any other sales of products -- of your
4 products to the United States?

5 A. You mean he bought our products from
6 somebody else?

7 Or do you mean that he wholesale
8 distributed them?

9 Q. It could be either one of them. I'm asking
10 what you know, and I'm trying not to put too many --

11 A. My understanding is he bought from us in
12 large quantity to distribute not only to his own
13 retail shop but to other stores on the east coast
14 that wanted smaller quantities and weren't prepared
15 to take board shipments in volume.

16 Because to ship the boards by air
17 freight, you had to break certain price points with
18 the airlines like 2,000 kilos of volumetric to get a
19 particular price per kilo.

20 So it was at an advantage to bulk ship
21 large quantities to one location. He broke it and
22 then sent small lots to other surf shops that were --
23 like wanted the product, but they didn't want the
24 volume of product called merchandise. That's the way

1 **I understand it all worked.**

2 Q. Okay. Thank you.

3 During that same time period, were you
4 shipping directly to any other surf shops on the east
5 coast?

6 A. Yes, yes. We did -- we did ship to a number
7 of surf shops on the east coast that had a sufficient
8 quantity at one particular time. Like McKendree
9 would say, Ship me one big boatload every month,
10 but we might have a -- a surf shop at say Cape Cod
11 that would take one shipment and that would last
12 him for six months or ten months, and that was --
13 occasionally that happened. They were direct
14 shipments to other retailers, yes.

15 Q. Okay. Thank you.

16 If I could refer your attention back to
17 the exhibit. It's the one with the Surfing magazine
18 and the Page 2 with the ad from Australian Imports
19 Unlimited.

20 You had a bit of a discussion with
21 Mr. Raygor about, you know, who may have created this
22 ad.

23 A. Yes.

24 Q. So during the time period that you were

1 selling to Mr. McKendree, how were -- did you have an
2 ad department or an in-house?

3 **A. Yes.**

4 Q. Or were you working with an ad company in
5 Australia?

6 **A. No. We had our own in-house advertising**
7 **company. We had graphic people, and we had people**
8 **booking space and doing artwork for various companies**
9 **around Australia and around the world.**

10 **So, as I explained to you earlier, our**
11 **company was well-diversified from film making to**
12 **magazine publication to advertising all wrapped up**
13 **under one roof, quite unusual.**

14 Q. Did your in-house ad agency only make --
15 well, strike that.

16 Is it possible they could have sent some
17 elements of this ad to Mr. McKendree?

18 MR. RAYGOR: Calls for speculation.

19 BY THE WITNESS:

20 **A. Yes.**

21 BY MR. BAGLEY:

22 Q. Do you recall any specific times where your
23 in-house agency sent photographs or pictures of
24 specific products to other people, you know, outside

1 of the company?

2 **A. I can't recall, but let's say if my**
3 **advertising manager was here he would recall.**

4 Q. I certainly understand that.

5 **A. Yes.**

6 Q. I just was, you know --

7 **A. I can't. I mean, I had 400 people employed,**
8 **right, so...**

9 Q. I understand that. I was just trying to see
10 if I could clarify it a little bit.

11 Did you say -- and pardon me if you've
12 answered this -- but you did not specifically recall
13 whether your in-house department would have created
14 this ad or maybe someone else created it?

15 **A. My understanding is they probably did.**

16 Q. Okay.

17 **A. But I'll be seeing the gentleman shortly**
18 **that was our advertising manager, and he's a resident**
19 **in Bali at the moment. I can ask him, and he will**
20 **tell me straightaway.**

21 Q. Well, okay. I understand, but I'm asking
22 you what you know today. So I understand you can
23 always find out. One can always find out more
24 information later if one has all the time in the

1 world, right?

2 **A. Sure.**

3 MR. BAGLEY: Okay. I believe that is all
4 the questions I have.

5 MR. RAYGOR: Just a couple of follow-ups.

6 THE WITNESS: Yeah.

7 FURTHER EXAMINATION

8 BY MR. RAYGOR:

9 Q. Okay. While we were on a break in between,
10 there was some conversation, and you were looking at
11 exhibit -- I'm sorry. If I can just see what -- the
12 Statutory Declaration is what?

13 MR. BAGLEY: 52.

14 MR. RAYGOR: I keep forgetting to write
15 these down.

16 MR. BAGLEY: Yeah. I did that once too
17 but 52 --

18 BY MR. RAYGOR:

19 Q. 52 was the thing that was signed in Dubai?

20 **A. Yeah, that one.**

21 Q. And you -- you looked through it, and I
22 think you said that, paraphrasing, it was very
23 succinct?

24 **A. Well, it looks like it's covered things**

1 **pretty well.**

2 Q. And you said, I don't think there are any
3 errors in that. Is that -- is that correct?

4 **A. I'd have to read it line by line again.**

5 Q. Tell you what.

6 Why don't you look at it and let me know
7 if you -- if it's accurate.

8 **A. Okay.**

9 Q. Or if there is anything that needs to be
10 changed.

11 **A. Okay. Give me a minute, and I'll read this**
12 **right through.**

13 Okay. All right. The comment, "Around
14 1960, a boot was developed at our factory made from
15 sheepskin material and it was sold -- it was called
16 'UGG Boots.'"

17 At that stage, it was a combined effort
18 between Charlie Spencer and our factory or our
19 company, Arnold Shoes, on a basic boot that he had in
20 his garage, and we at Arnold Shoes had expanded on
21 that range of boots to be a range of boots from short
22 to long to decorative and so forth.

23 So when I say an UGG boot, UGG boot was
24 the general name of all of these boots, and the one

1 specific boot that is in this ad it was the original
2 UGG boot.

3 So when we talk UGG boots, we talk of
4 multiples of designs, and my comment here, "Around
5 1960, a boot was developed at our factory made from
6 sheepskin material and it was called 'UGG Boots,'"
7 yes, that's correct, but there were multiples of
8 boots.

9 Some Charlie Spencer had put together
10 and then sent to our factory for completion. Others
11 that our factory had done were quite different to
12 what he had even done in his backyard workshop. So
13 it was a combined effort of both --

14 Q. Charlie and you?

15 A. Charlie and ourselves. He had no marketing
16 opportunity or market for the boots to go to. So we
17 had that through our surf shop network and other
18 products.

19 So, in effect, what we're saying here --
20 and this is fairly accurate -- but you could expand
21 on all of the pieces in this statement this way if
22 required.

23 Q. One -- one last thing is, in your discussion
24 earlier with Mr. Bagley, you talked about how many

1 boots were produced or manufactured out of your
2 shop -- not a shop probably but out of your
3 factory?

4 **A. Yes.**

5 Q. Per week, and I think you said it could be
6 upwards of a thousand pairs a week?

7 **A. Upwards of a thousand, yes.**

8 Q. Do you have any records today that would
9 show what your production capacities were at the time
10 or how much you actually produced per week or over
11 any period?

12 **A. I don't have any records. I'm sorry.**

13 Q. Okay.

14 **A. I wish I did. I'm sorry.**

15 Q. It's a lot of stuff to carry on.

16 **A. I would love to. I would love to but, you**
17 **know, all I want to give you is the exact information**
18 **accurate; and if I had those records, they would be**
19 **freely available.**

20 Q. And I wasn't trying to trick you earlier as
21 far as when Mr. -- when asking you about what
22 documents you had brought and I had not mentioned
23 this one.

24 **A. Yeah. It's a genuine document.**

1 Q. Apart from those two, the O'Neill cover and
2 then the thing from Carl Keehn, is there anything
3 else that you brought with you?

4 **A. No.**

5 MR. RAYGOR: I don't need to detain you any
6 longer. I've got nothing further that I need to ask
7 you, and you can go meet your daughter and enjoy the
8 city.

9 THE WITNESS: Thank you. Thank you,
10 gentlemen. Thank you kindly.

11 MR. BAGLEY: I have no further questions as
12 well.

13 Do we want to put on the record some
14 stipulations about the transcript?

15 MR. RAYGOR: Let me just ask.

16 We're going to finish off this
17 transcript. The court reporter will put together a
18 transcript here of everything that was said today and
19 deliver it to you.

20 THE WITNESS: Thank you.

21 MR. RAYGOR: Where will you be say in seven
22 or ten days from now? How long will it take you?

23 THE COURT REPORTER: Ten days, ten business
24 days.

1 MR. RAYGOR: Like ten business days from
2 today so two weeks from today, where will you be?
3 Because she's got to deliver it to you.

4 THE WITNESS: Well, what I'll do is give you
5 a post office box number for Dubai. I don't expect
6 that I'll be there because I have -- next week I get
7 off the flight from this trip, and then I'll be in
8 Kuwait then; and then from that trip, I've got
9 another one lined up I think in Dubai and another
10 one in London.

11 So I've got an extensive program in the
12 next six weeks.

13 MR. RAYGOR: Do you want to give him more
14 time than 30 days?

15 MR. BAGLEY: I would be fine with that,
16 yes.

17 What we're talking about is, you know,
18 you will get a copy of the transcript of today.

19 THE WITNESS: Okay.

20 MR. BAGLEY: And you will have the
21 opportunity to --

22 THE WITNESS: All right.

23 MR. BAGLEY: -- to look it over and make
24 corrections.

1 THE WITNESS: All right. Would you be
2 sending this on a courier or were you sending this
3 to a post office box number? Because in Dubai, we
4 run on post office box numbers. We don't run on
5 addresses.

6 MR. RAYGOR: Post office box probably.

7 THE WITNESS: But let me say to you. If
8 you're sending it by courier, they will deliver it to
9 my address because couriers have to; but if you're
10 generally saying, What is your address in Dubai? I
11 will be saying Post Office Box XYZ, and that number
12 then is related into the government records and they
13 know where you are.

14 MR. BAGLEY: Okay. I think it sounds like
15 the post office box number will be fine.

16 The only question is, you know, when in
17 a practical sense will you be able to pick it up and
18 take a look at it? And we usually give, you know,
19 30 days is a standard time for you to look -- after
20 you get it, of course, to take a look at it and come
21 back to us with corrections; but if you're going to
22 be traveling a lot, we were talking about giving you
23 a longer period of time. I don't think there is a
24 particular rush in our case.

1 THE WITNESS: By the 15th of next month, I
2 should be in Australia for two months.

3 MR. BAGLEY: Will you have time to pick up
4 the document from -- because it, you know, it will be
5 a number of pages --

6 THE WITNESS: Okay. Can I let you know
7 where and the best way to get this to me by tomorrow
8 or something or do you need it today?

9 MR. RAYGOR: Sure. Let's do that.

10 THE WITNESS: Because I'll have to plot when
11 I'll be in Dubai for "X" amount of time.

12 MR. RAYGOR: And if you're going to be in
13 Australia for a week or two, maybe we can ship it
14 there, but we'll let you decide.

15 THE WITNESS: Well, I know that I've got to
16 book for Australia shortly. I have got things to do
17 down there, and that's nothing to do with this
18 business. We have other things to do, and it's
19 probably going to be the middle of next month.

20 As we come near Ramadan, I'll exit Dubai
21 and spend that time in Australia because I've got to
22 do some house repairs.

23 MR. BAGLEY: All right. So that would be
24 the middle of May approximately.

1 THE WITNESS: Yeah, approximately.

2 MR. RAYGOR: That's fine.

3 MR. BAGLEY: Yes. We will be able to
4 stipulate to that.

5 THE WITNESS: So I think that's going to be
6 Australia in the middle of May, and I'll give you
7 116 Frederick Street.

8 MR. BAGLEY: We'll get it from you. Thank
9 you.

10 MR. RAYGOR: So let's just finish up.

11 THE WITNESS: I'm sorry about that.

12 MR. RAYGOR: What we will do is the
13 transcript will be prepared, finalized. It will be
14 delivered to you somehow. You will let us know
15 where.

16 THE WITNESS: Yeah. I'll let you know.

17 MR. RAYGOR: And you will then have we'll
18 say for now 60 days, okay, in which to make any
19 corrections.

20 THE WITNESS: Okay.

21 MR. RAYGOR: And to sign it and return it to
22 the court reporter.

23 THE WITNESS: Okay.

24 MR. RAYGOR: Who will then distribute it to

1 us.

2 THE WITNESS: Okay.

3 MR. RAYGOR: And so sometimes things like
4 words or names might be misspelled, and feel free to
5 correct those if you need to.

6 There might be other things that need to
7 have more substantive corrections. You can make
8 those too. Just I want to caution you that if it's a
9 really big substantive correction that Mr. Bagley or
10 I could comment on that.

11 THE WITNESS: I see.

12 MR. RAYGOR: Perhaps question your
13 credibility if you make a really big change. I doubt
14 there is anything like that but, you know, it does
15 happen.

16 So anyway you will have the chance and
17 if -- to make the corrections. If at the end of
18 those 60 days we don't receive a signed, corrected
19 copy of the transcript, then an unsigned certified
20 copy can be used for any and all purposes in this
21 case by Mr. Bagley or by me.

22 Is that all right, Mark?

23 MR. BAGLEY: Yes. So stipulated.

24 MR. RAYGOR: So stipulated here.

1 With that -- let me finish one thing.
2 With that, we would relieve the court reporter of her
3 duties otherwise mandated by Federal Rules of Civil
4 Procedure 30.

5 THE VIDEOGRAPHER: Should I go off the
6 record?

7 MR. BAGLEY: I believe so.

8 MR. RAYGOR: Yes.

9 THE VIDEOGRAPHER: This marks the conclusion
10 of today's deposition. Going off the record at
11 12:24 p.m.

12
13 AND FURTHER DEPONENT SAITH NAUGHT . . .

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IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

DECKERS OUTDOOR CORPORATION,)
Plaintiff,)
-vs-) No. 1:16-CV-03676
AUSTRALIAN LEATHER PTY, LTD.)
and ADNAN OYGUR a/k/a)
EDDIE OYGUR,)
Defendants.)

I hereby certify that I have read the foregoing
transcript of my deposition given at the time and
place aforesaid, consisting of Pages 1 to 127,
inclusive, and I do again subscribe and make oath
that the same is a true, correct, and complete
transcript of my deposition so given as aforesaid,
and includes changes, if any, so made by me.

JOHN ARNOLD

SUBSCRIBED AND SWORN TO
before me this ____ day
of _____, 2017
Notary Public

1 STATE OF ILLINOIS)

2) SS:

3 COUNTY OF DU PAGE)

4 I, PATRICIA M. STONE, a Certified Shorthand
5 Reporter of the State of Illinois, do hereby certify:

6 That previous to the commencement of the
7 examination of the witness, the witness was duly
8 sworn to testify the whole truth concerning the
9 matters herein;

10 That the foregoing deposition transcript was
11 reported stenographically by me, was thereafter
12 reduced to typewriting under my personal direction,
13 and constitutes a true record of the testimony given
14 and the proceedings had;

15 That the said deposition was taken before me at
16 the time and place specified;

17 That the reading and signing by the witness of
18 the deposition transcript was agreed upon as stated
19 herein;

20 That I am not a relative or employee or attorney
21 or counsel, nor a relative or employee of such
22 attorney or counsel for any of the parties hereto,
23 nor interested directly or indirectly in the outcome
24 of this action.

1 IN WITNESS WHEREOF, I do hereunto set my hand
2 and affix my seal of office at Chicago, Illinois,
3 this 1st day of May, 2017.

4
5
6 
7 Notary Public, DuPage County, Illinois

8 Patricia M. Stone, CSR

9 CSR Certificate No. 084-002880

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